

April 1, 2008



**TRANSCRIPT
April 1, 2008**

MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Michael Knapp, President
Councilmember Roger Berliner
Councilmember Valerie Ervin
Councilmember George Leventhal

Councilmember Phil Andrews, Vice President
Councilmember Marc Elrich
Councilmember Nancy Floreen
Councilmember Duchy Trachtenberg



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1 President Knapp,
2 Good morning, everyone. Sorry for the little bit of a delay. We had breakfast with the
3 County Executive this morning, and between the traffic and the rain, everything's a little
4 more slow than we'd like it be. I would ask everyone to please we rise and join us for a
5 moment of silence. In particular, I would ask that we keep in our prayers Anthony Austin
6 and Athena Castillo, who were victims of a very tragic incident over the weekend. And
7 our thoughts and prayers are with them and also with their families. Thank you very
8 much. I now turn to a proclamation in recognition of April as Organ and Tissue Donation
9 Awareness Month, presented by Councilmember Leventhal.

10
11 Councilmember Leventhal,
12 Good morning. We have a couple of extraordinary stories that we're going to hear this
13 morning about little girls whose lives were saved through organ transplants. And I'm
14 going to read one first and then I'm going to call on Ms. Schonay Barnett-Jones who
15 has her beautiful daughter here with her. I'm sorry, what is your daughter's name?

16
17 Schonay Barnett-Jones,
18 Olivia.

19
20 Councilmember Leventhal,
21 Olivia; fabulous. So first of all I just want to read a message that the Council received
22 thanking us for introducing this proclamation in recognition of April as Organ and Tissue
23 Donation Awareness Month. Ms. Susan Comisky and Mr. David Dwares wrote that their
24 daughter, Anna Dwares, has had three liver transplants. Anna was born with biliary
25 atresia, a disease of bile ducts. Anna received her first liver transplant at the age of six
26 months. She received a portion of her father's liver. Unfortunately, Anna experienced a
27 number of complications and eventually needed another transplant. Some unknown
28 family made the courageous decision to donate their child's organs, and Anna was
29 given a second gift of life when she was just five years old. Anna again experienced
30 complications after that transplant and was in need of yet another liver transplant. Just
31 as Anna was getting critically ill and when we were beginning to really despair, another
32 family made the very difficult decision and donated their loved one's organs. Anna is six
33 and a half at the time. Anna is an amazing little girl full of life and spirit raising the
34 awareness of and educating people about organ and tissue donation. It is a cause close
35 to our heart. That's a message we received from Susan Comisky and David Dwares of
36 Potomac. And I'd like now Schonay Barnett-Jones to tell Olivia's story. Right here.

37
38 Schonay Barnett-Jones,
39 Good morning. First I would like to thank the Council for giving us an opportunity to
40 share a little bit of our story with you. Olivia was diagnosed with an enlarged heart when
41 she was six months old at Holy Cross. We thought she had pneumonia. And within
42 about four hours we were told that her chances of survival rested with her receiving a
43 new heart. That was about two and a half years ago. So we lived a very long time
44 downtown at Children's National Medical Center and experienced a lot of love from our



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1 neighbors in Stone Gate Community, and our family and friends. And on September 25,
2 2005, we got a call at 3:00 in the morning that a heart was available for Olivia. She was
3 listed for 296 days, which is a very long time to watch anyone in heart failure, but
4 especially your infant in heart failure. She's jet lagged. She's yawning. But we got the
5 call, and I have to tell you that the family that made the decision to donate their
6 daughter's heart in the midst of a very tragic time for them has really been a blessing to
7 us. They are very courageous.

8
9 Olivia,
10 Mommy, I lost [inaudible].

11
12 Schonay Barnett-Jones,
13 Okay. We'll find it. And we have been very blessed in the last two and a half years to
14 watch her laugh and grow and play and do all the things that a normal toddler would do.
15 But I have to tell you there are so many families who either don't get that opportunity
16 because their children can't wait, or their loved ones can't wait that long, and that call
17 never comes for them. And so we make it our point as well as this family to talk about
18 organ donation, to talk about the fact that it doesn't just impact older people, it impacts
19 children. It impacts children in our community and lots of them. Olivia is probably one of
20 the youngest heart recipients in the county right now, but there are a couple more. And
21 we have our own little network of self-help, if you will. And so I ask you today to if you
22 ever have the opportunity to say yes, please say yes, and know that it will impact
23 someone's life in ways that you could never imagine. Just gives them an opportunity to
24 have today. And we've really learn to just treasure today. And so I thank you for your
25 recognition of the importance of organ donation not only for our county residents, for all
26 of us and the real impact that it has in our lives.

27
28 Councilmember Leventhal,
29 Well, that's wonderful and we're really glad you're here. It's a special pleasure to greet
30 Olivia, and we wish her many, many years of great health and growth and a wonderful
31 future. So we have this proclamation this morning that says, Whereas almost 2,000
32 people living in the Washington D.C. Metropolitan area are waiting for a life-saving
33 organ transplant and thousands more need a tissue transplant this year; and Whereas,
34 every day, 18 of the 100,000 Americans waiting for an organ transplant will die before
35 they receive a second chance at life; and whereas the Washington Regional Transplant
36 Community is observing more than 20 years of educating the residents of Montgomery
37 County to say yes to donation thereby giving the gift of life through organ and tissue
38 recovery; and, whereas, Montgomery County resident can make their donation decision
39 either by designating donation on their driver's license or signing up at
40 www.donatelifemaryland.org and discussing their choice with their family; and, whereas
41 during Donate Life Month we honor our County's organ and tissue donors and their
42 families whose decision to share the gift of life through America's Donor Program serves
43 as an example for all members of our community; therefore, Ike Leggett, County



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1 Executive, and Michael Knapp, County Council President, proclaim April 2008 as Organ
2 and Tissue Donation Awareness Month in Montgomery County.

3
4 Schonay Barnett-Jones,
5 Olivia is a 2008 Ambassador for Children's Miracle Network for our area. And so thank
6 you for that.

7
8 Councilmember Leventhal,
9 Olivia, can I get a high five?

10
11 President Knapp,
12 There you go. Thank you for coming, Olivia. Thank you, Mr. Leventhal. Thank you for
13 bringing that all to our attention. Before we get started, I just want to make note that
14 Councilmember Trachtenberg is ill today. And Councilmember Floreen is absent on
15 Council business, but will be back a little bit later this morning. We now turn to general
16 business; Ms. Lauer.

17
18 Linda Lauer,
19 Good morning. We have the three additions to the consent calendar; introduction of
20 three supplemental appropriations, one is for the Department of Public Works and
21 Transportation, \$12,742,000 for ride on bus fleet. That public hearing will be April 22 at
22 1:30. The second one is for Community Use of Public Facilities, \$50,000 for artificial turf
23 pilot at Richard Montgomery High School. And the third is for Community Grants Non-
24 Departmental Accounts, 250,000 for Boy's and Girl's Club of Greater Washington.
25 Public hearing on those two is April 15 at 1:30. We want to announce that the T&E
26 Committee on Thursday is canceled. And I have one petition. Okay. That was from a
27 petition supporting an addition Sherwood Elementary School. Thank You.

28
29 President Knapp,
30 Thank you very much. Approval of minutes; Madam Clerk.

31
32 Council Clerk,
33 You have the minutes of March 11 for approval.

34
35 President Knapp,
36 Is there a motion?

37
38 Councilmember Ervin,
39 So moved.

40
41 President Knapp,
42 Moved by Councilmember Ervin, and second by Council Vice President Andrews. All in
43 favor of the minutes please raise your hand indicating aye. That is unanimous among
44 those present, all five of us. We now turn to the Consent Calendar. Is there a motion?



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1
2 Vice President Andrews,
3 Moved by Council Vice President Andrews. Is there a second?

4
5 Councilmember Berliner,
6 Second.

7
8 President Knapp,
9 Seconded by Councilmember Berliner. Any comments? I would make just a couple. I
10 see where we are trying to match some state resources for the Germantown business
11 incubator. And I think it's important for us to do that. I would just note for staff that at
12 some point, and we'll get some of this when we address things in the upcoming budget,
13 but I think it's worthwhile for the PHED Committee to get an update on just the various
14 incubators that we have out there and what the status is, and how things are proceeding
15 as far as the number of businesses in those incubators. What is the County's ongoing
16 operating commitment to those, and especially in light of potential economic downturns;
17 how are things going. I would also note that we have a number of confirmations of
18 appointments to various boards and commissions. And I would just thank all of those
19 who we'll be confirming shortly for their commitment to community service. And I believe
20 those are our big issues today? Seeing no other comments -- Council Vice President
21 Andrews.

22
23 Vice President Andrews,
24 Thank you, President Knapp. I just wanted to comment very briefly on Item H, which is
25 the PHED Committee report and recommendations on an OLO report 2007-9. It was a
26 study of Moderately Price Dwelling Unit Program implementation issues. I just think it's
27 important to note that this is an example of good work done by our research arm, the
28 Office of Legislative Oversight, which has made recommendations about improving this
29 particular program to the Council. And the Council has now gone through and made
30 some changes in terms of recommendations for policy on this important affordable
31 housing program as a result of that review. And I think it's important to note that we go
32 back and look at how programs are going and fine tune them and strengthen them on a
33 regular basis. And this is an example of that. And I want to thank OLO and the PHED
34 Committee for their good work.

35
36 President Knapp,
37 Thank you very much. I see no other comments. All in favor -- all in support of the
38 Consent Calendar, please raise your hand indicating aye. That is unanimous among
39 those present. Thank you very much. Councilmember Elrich wanted a point of personal
40 privilege.

41
42 Councilmember Elrich,
43 Yes. I was absent from the last Council meeting due to illness. I just wanted to note for
44 the record that had I been here, I would've voted in favor of the bill for Gaithersburg



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1 regarding the enterprise zone; that the questions I had asked of staff were answered
2 and they were answered in a way that relieved me of my concerns; and I would have
3 supported the legislation. So anything that goes forward can go forward with my
4 support.

5
6 President Knapp,

7 Very good. Thank you very much. We now turn to District Council Session. We have
8 before us introduction of Resolution to Amend Fees for Department of Permitting
9 Services sponsored by District Council at request of the County Executive. A public
10 hearing is scheduled for April 22 at 1:30 p.m. Turning to Legislative Session, day
11 number 10; approval of the legislative journal, Madam Clerk. There is no journal to
12 approve. We have introduction of Expedited Bill 5-08 -- Taxes, Personal Property Tax,
13 Electric Generating Equipment, sponsored by the Council President at the request of
14 the County Executive. Public hearing is scheduled for April 8, at 1:30 p.m. I see no
15 comments or questions. Call of Bills for final reading; Bill 3-08, Personnel Retirement
16 Sudan Investments Restrictions. The MFP Committee recommends approval. I will turn
17 to Council Vice President Andrews as the interim member of the MFP Committee to
18 walk us through portions of it. And we can turn to staff to fill in any questions that we
19 may have.

20
21 Vice President Andrews,

22 Thank you. Thank you, President Knapp. I first want to acknowledge the excellent
23 packet prepared by Bob Drummer, our legislative attorney, on this issue. It was very
24 thorough, very helpful to the committee, and I'm sure the Council -- and addresses all
25 the issues we're aware of that came before the Council regarding this issue. This is a
26 Bill that was introduced by Councilmember Elrich and cosponsored by Councilmembers
27 Ervin, Floreen, Leventhal and Berliner. And public hearing was held early last month
28 and work session by MFP shortly after that. Essentially what this would do is prohibit the
29 Employee's Retirement System from investing in certain businesses that conduct
30 operations in Sudan under certain conditions. This is meant to respond to the genocide
31 that has occurred and is occurring in Sudan, and establishing that the County will use its
32 influence through investments to try to have an impact on the government that is
33 responsible. The committee looked at a number of different issues, and they are laid out
34 very well in the packet. I'll just go through them briefly. The first issue, which is on page
35 four, was whether the Bill was constitutional, and clearly it is constitutional in terms of
36 national policy given the congress' enactment of the Sudan Accountability and
37 Investment Act of 2007. There was a question regarding potentially the state law and
38 fiduciary responsibility. It's a conclusion that this does not unconstitutionally impair the
39 contract rights of beneficiaries of the employment system, and the committee agreed
40 with the opinion of the Council staff -- legal staff on that. In terms of what the cost of
41 divestment might be, the best estimate we had was compliance would cost somewhere
42 in the \$45,000 to \$65,000 range in terms of the administrative impact. And it's very hard
43 to go much beyond that in terms of an estimate. But the cost would be very likely, very
44 minimal. In terms of whether this issue will be affective is a conclusion that in



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1 combination with other divestment efforts, it can be effective. There was a major
2 divestment campaign many people remember in the 70s regarding South Africa that
3 was felt to have some impact on the policy of the South African government at the time.
4 And we certainly hope that in combination with many other governments that have
5 already acted in this way that it will have some impact. And it's notable that the
6 government of Sudan has tried to stop these resolutions from being adopted and that
7 gives some evidence that at least the government of Sudan does not want this to be
8 done; and given that it would certainly get their attention and hopefully influence them to
9 stop the genocide that has been occurring in Darfur. In terms of where we draw the line
10 for social investing, the Council's view was that there needs to be a high threshold for
11 enacting this kind of policy, this kind of law, and certainly genocide under any one's
12 definition should be something that we can all agree is completely unacceptable and
13 should trigger the strongest possible action to try to stop. So that is where the
14 committee was very comfortable in drawing the line there. And I think that really hits the
15 major points of the Bill. I would ask Councilmember Elrich, who took the lead on this
16 measure, if he would like to make any comments about the Bill.

17
18 Councilmember Elrich,

19 I want to thank Mr. Drummer for the packet you put together today, but for the work you
20 did in getting us to the point that we could get the Bill through. I really appreciate the
21 research and effort that went into it. And I think you helped us navigate some of the
22 tricky waters that were new to all of us. I also wish that the students were here who --
23 because whoever that young man was -- probably was the amazing testimony I had
24 ever seen on financial matters. He's probably been grabbed by a Wall Street firm
25 already.

26
27 Vice President Andrews,
28 He was very impressive.

29
30 Councilmember Elrich,

31 He was very, very impressive. And not only for their testimony that day but I think for
32 them going through the process of lobbying the different Councilmembers. When they
33 first came to me, they were like, we introduced this Bill and get it done. And I'm like,
34 that's not the way things work. You actually have to go to the other Councilmembers
35 and you have to convince people that this is the right thing to do. And they stuck to it.
36 They went and they talked to other people, and they made the point that this was
37 important. And I think they were rewarded for their hard work. So I thank my colleagues
38 for cosponsoring, and I thank the students for helping get us this far. And, Mr. Drummer,
39 for your work on this.

40
41 Vice President Andrews,
42 So the committee is unanimously recommending approval of the Bill.

43
44 President Knapp,



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1 Very good. I just also would like to echo Mr. Elrich's comments as it relates to the
2 students who participated in this process. I know that as it relates to both the pass of
3 this legislation and any number of other efforts as it relates to Sudan and Darfur the
4 students throughout the County have been actively engaged in fund-raising efforts and
5 advocacy. And it's great to see the youth of our community get civically engaged, and
6 so I appreciate their efforts in the passage of this and other activities they've undertaken
7 in this area. We have one other thing.

8
9 Vice President Andrews,
10 There is a -- let me ask Mr. Drummer to talk about the conforming amendment that he is
11 recommending to the Bill that developed after the committee addressed the other
12 issues.

13
14 Robert Drummer,
15 Thank you. The staff is recommending that this Bill be amended slightly to include
16 coverage for any actively managed separate accounts that are created in the OPEB
17 trust, which is the Bill that's next on the agenda. At the time the committee was
18 considering this Bill, it wasn't really -- actually it wasn't made and the OPEB Bill wasn't
19 actually back in front of the Council at the time. So the amendment on page 8 of the
20 memo would just extend the restrictions which may not actually have any practical effect
21 early on in the OPEB trust because they may not have enough money to do the actively
22 managed separate accounts, but hopefully they will some time in the future. So, we're
23 asking that you amend the Bill to include what's now going to be called instead of the
24 OPEB trust, the Retiree Health Benefits Trust.

25
26 President Knapp,
27 To the committee, I assume that is their recommendation?

28
29 Vice President Andrews,
30 Committee? Yes? All right.

31
32 Councilmember Elrich,
33 I wasn't on the committee at that time, so whatever the committee [inaudible].

34
35 President Knapp,
36 Okay.

37
38 Councilmember Berliner,
39 I was on the committee at the time, and it's fine by me.

40
41 President Knapp,
42 Okay. Very good. We'll take that as a committee recommendation then. Any additional
43 comments? Seeing none, Madam Clerk, will you call the roll.
44



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1 Council Clerk,
2 Mr. Elrich.

3
4 Councilmember Elrich,
5 Yes.

6
7 Council Clerk,
8 Mr. Leventhal.

9
10 Councilmember Leventhal,
11 Yes.

12
13 Council Clerk,
14 Ms. Ervin.

15
16 Councilmember Ervin,
17 Yes.

18
19 Council Clerk,
20 Mr. Berliner.

21
22 Councilmember Berliner,
23 Yes.

24
25 Council Clerk,
26 Mr. Andrews.

27
28 Vice President Andrews,
29 Yes.

30
31 Council Clerk,
32 Mr. Knapp.

33
34 President Knapp,
35 Yes. Motion carries. Personal Retirement Sudan Investments has passed 6 to 0. We
36 now turn to Expedited Bill 28-07, Personnel, Other Post Employment Benefits Trust. I
37 turn to Council Vice president Andrews again.

38
39 Vice President Andrews,
40 Okay. Thank you, President Knapp. Expedited Bill 28-07 would establish a trust for the
41 funds that are used to fund what has been known as the -- the GASB funds that are
42 related to funding retiree health benefits. This would establish a trust for that purpose.
43 And the advantage of having a trust is it will be able to generate a significantly higher
44 rate of return. The difference is assumed to be about an average of 8% verses 4%,



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1 which is certainly a significant difference in investment return. And so the committee
2 recommended the establishment of that trust for that purpose, 3 to 0. The committee
3 split two to one. I was in a minority on what -- whether the trust should be with the
4 existing Board of Investment Trustees or whether to have a separate three-member
5 board set up for the purpose. I supported the separate board since all the funds in this
6 would be funds from taxpayers. But the committee voted 2 to 1 to have it within the
7 Board of Investment Trustees, which certainly has a good record of managing County's
8 money. And so that was the decision by the committee. And we all agreed that we
9 should clarify what this will do by renaming it the Retiree Health Benefits Trust and clear
10 its purpose -- that's 3-0. And then we clarified with some language put together by
11 Councilmember Berliner to subject the authority, the Chief Administrator Officer to
12 amend or terminate a retirement plan to the terms of an existing collective bargaining
13 agreement or the duty to bargain to the extent applicable. And we added the words to
14 extent applicable so it doesn't change the current understanding of the obligation to
15 bargain, that we're not trying to expand it under this, it would simply indicate that where
16 it's applicable it would be bargained. That is a brief summary of the measure. If I have
17 left something out, please add, Mike Faden or Bob Drummer, to what I've said.

18
19 Robert Drummer,
20 No, I have nothing.

21
22 President Knapp,
23 I see no comment?

24
25 Councilmember Ervin,
26 I have a question on page 3 on MCGEO and the bargain -- the submission of the
27 proposed Bill to the Council was a failure to negotiate over a mandatory topic of
28 bargaining. And so in the packet I went through to find out what that meant. I see that
29 the IAFF withdrew its [inaudible] to prohibited practice charges in January. Can you sort
30 of just explain at the end of the day what that means; where we are and what this all
31 means?

32
33 Robert Drummer,
34 Well, the Labor Relations Administrator never ruled on it, so we don't have a ruling. The
35 argument from MCGEO was that the creation of the trust itself or proposing legislation
36 to create the trust affected retiree benefits, and therefore was bargain-able. The County
37 Executive's position was that it was not bargain-able and -- but, you know, he originally
38 submitted the legislation --.

39
40 Councilmember Ervin,
41 So this is -- .

42
43 Robert Drummer,



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1 There were some conversations, I guess, and then the legislation was submitted
2 differently with amendments or amendments were requested. The IAFF was taking the
3 lead on that. It's my understanding on that unfair labor practice charge. They withdrew
4 their charges. The MCGEO charge is still -- and I guess Marc maybe could -- last I
5 heard was the MCGEO charge had not been withdrawn but was not being acted on,
6 and it's probably never going to be decided because it's at this point moot.

7
8 Councilmember Ervin,
9 It's a moot point?

10
11 Robert Drummer,
12 Well because the Council always, you know, the Council is not bound by the obligations
13 to bargain with the union, so the Council -- once the Council enacts the law that's the
14 law. I mean, the MCGEO could come back and say that well you still need to bargain
15 with us to submit amendments to the law. But it's not my understanding that's going to
16 happen.

17
18 Vice President Andrews,
19 It appears that the primary objective to the unions was to the establishment of a three-
20 member board of ex officio representatives to manage the fund rather than locating the
21 fund as originally -- the Executive's original Bill proposed setting up a three-member
22 committee to manage this trust fund. And the Executive came back with an amendment
23 to have it in the Board of Investment Trustees, which seemed to address the objections
24 that were raised by the employee leaders. And the committee voted 2 to 1 to support
25 the Executive's amendment to not have it in the -- not to create a separate board, but to
26 have it managed by the Board of Investment Trustees, and that seems to have resolved
27 the issue at least for the most part.

28
29 Councilmember Ervin,
30 All right.

31
32 President Knapp,
33 I see no further questions? Madam Clerk, will you call the roll.

34
35 Council Clerk,
36 Mr. Elrich.

37
38 Councilmember Elrich,
39 Yes.

40
41 Council Clerk,
42 Mr. Leventhal.

43
44 Councilmember Leventhal,



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1 Yes.

2
3 Council Clerk,
4 Ms. Ervin.

5
6 Councilmember Ervin,
7 Yes.

8
9 Council Clerk,
10 Mr. Berliner.

11
12 Councilmember Berliner,
13 Yes.

14
15 Council Clerk,
16 Mr. Andrews.

17
18 Vice President Andrews,
19 Yes.

20
21 Council Clerk,
22 Mr. Knapp.

23
24 President Knapp,
25 Yes. Expedited Bill 28-07 passes 6 to 0. Thank you very much. Thank you, Mr.
26 Andrews, for stepping in there. Appreciate it. We now return to status report of the
27 FY09-14 Capital Improvements Program. Dr. Orlin. And I will just note before Dr. Orlin
28 begins his overview, which will show a big number that we still have yet to close, but
29 we'll need to do soon that it is my hope in the next day or so that in working with staff
30 and trying to take the feedback that I've received from -- over the course of the last
31 month that the Council has undertaken on the CIP deliberations to have a President's
32 Mark draft CIP that I will begin circulating to Councilmembers either today or tomorrow
33 to get your feedback, which will start the basis for our CIP work session next week; in
34 which we will not reach final reconciliation but kind of interim reconciliation left to the
35 final refinements that are included in the Operating Budget discussion that we'll get to in
36 May. And so I will be working with Councilmembers over the course of the next couple
37 of days to be in to get that information out. So I look forward to meeting with all you on
38 that. Mr. Orlin.

39
40 Glenn Orlin,
41 The good news is the Nationals are in first place. For now. The bad news over the last
42 couple of weeks -- .

43
44 Councilmember Elrich,



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1 What did you pay for your tickets?

2
3 Glenn Orlin,

4 Too much. The bad news is that as, you know, back when the Executive submitted his
5 Operating Budget request, he also transmitted new revenue estimates for several
6 revenue sources that supply funds for the Operating Budget and the CIP, including the
7 recordation tax. And, as you recall, the recordation tax is not just for the Operating
8 Budget but also -- there's an increment that was passed in 2002 for school projects.
9 And also further increment that you adopted last fall for county government projects and
10 for housing. The school increment of the CIP is now short by \$36 million. This is over six
11 years, not one year, but six years. So there's \$36 million less available out of that
12 revenue source for the full six-year CIP. There's also about \$6 million less available out
13 of the -- what we've been calling the county government increment of the recordation
14 tax, which is what you adopted last fall. There's a further \$6 million reduction which is
15 not expressed here because that's what was going to go to housing, and I believe that's
16 going to be expressed or is expressed in the Operating Budget.

17
18 President Knapp,

19 So just to clarify that; so we are now assuming a lower projected revenue of \$36 million
20 on the basis of what we've seen?

21
22 Glenn Orlin,

23 Actually 42; 36 million from the schools and 6 from the [inaudible].

24
25 President Knapp,

26 A 42 on the basis of what we're seeing in the economy and our past history of collection
27 of recordation taxes.

28
29 Glenn Orlin,

30 Right. Some of this shows up -- most of it shows up as a larger deficit on the bonds
31 side, a small amount of it shows up an additional deficit on the current revenue side.
32 There was no difference in Park and Planning bonds. That's basically where we are.

33
34 President Knapp,

35 Okay. The challenge continues to get more challenging. Comments or questions by
36 Councilmembers? Okay. As indicated I will follow up with each of you over the course of
37 the next couple of days, but I would urge you if you have questions or Dr. Orlin over the
38 coming days to reach out to him. We will spend next Tuesday -- it's afternoon; right?

39
40 Glenn Orlin,

41 Morning, I think.

42
43 President Knapp,



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1 Next Tuesday morning, we'll focus on the CIP work session to see how close we can
2 come to getting to that number within the framework that -- what is the range we're
3 looking to try to get to?

4
5 Glenn Orlin,
6 Zero.

7
8 President Knapp,
9 Well, ultimately.

10
11 Glenn Orlin,
12 Ultimately we'll get down to zero. If we can get close to zero in each of the years that
13 would be best. So when we have their final reconciliation in May it can be purely
14 technical. And by zero I mean over the six-year period there will still be ups and downs
15 that will have to be smoothed out, but that's manageable. But we'd like to get -- at least
16 at staff level, we'd like to get down to zero.

17
18 President Knapp,
19 Okay. That is our charge for next Tuesday morning. Okay. Thank you, Dr. Orlin. We
20 now turn to the work session on infrastructure maintenance. This was done, I believe,
21 four years, three years ago. It was done when Councilmember Perez was Council
22 President, and Councilmember Praisner chaired the infrastructure maintenance task
23 force, which started this assessment of where do we stand in actually funding our
24 infrastructure and maintenance activities throughout county government. And what I
25 wanted to try and do is to at least have this brought before us before the Council
26 undertook its work session next week so as we consider all of the CIP issues that we
27 are, we all know that libraries and fire stations new anything are interesting and exciting,
28 and everybody likes those; but that the ongoing maintenance of our existing
29 infrastructure is also significant just not necessarily quite as exciting. And to make sure
30 that we have taken efforts to address whatever the backlogs are in those areas of the
31 less glamorous part of county government, if you will. And so I wanted to have Dr. Orlin
32 walk us through this and give us a -- so we have a better familiarity before we undertake
33 our work session next week.

34
35 Glenn Orlin,
36 I'll try to keep this relatively brief in the time. This is an effort that started three years
37 ago. The first report was issued in March of 2005, and it followed more or less the same
38 format as you see in this report, which had tables on the CIP and tables in the
39 Operating Budget comparing what was recommended -- what was currently being
40 recommended at the time for infrastructure maintenance against including a couple of
41 other metrics. One is what the facility managers in the agencies believed to be what
42 would be an adequate replacement value now and every year. That shows up in here
43 as a term called acceptable annual replacement cost. The idea is that if you could
44 provide that amount of money in the CIP or in the Operating Budget for those items



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1 each year, then you may have a backlog right now, but eventually the backlog would be
2 eliminated and you would be able to keep up with what you're doing. The tables have
3 the information which shows you every piece of how that acceptable annual
4 replacement cost was calculated. And it also shows what the request is from the agency
5 involved to try to meet that. For the Operating Budget it's a little simpler. There are not
6 as many columns in the tables, but it also does compare what the agency is asking for
7 against what the facility managers believe are the --- what is necessary to keep the
8 infrastructure intact. When we talk about infrastructure, we're really talking about
9 existing roads, buildings, and the pieces of them; storm drains, et cetera. We're not
10 talking about new facilities here just keeping what we have in good shape. There is a
11 section report on the bottom of page three which shows some examples of areas where
12 you see where the agency's request has been -- is actually compared to the shortfall.
13 The shortfall is between what the agency is requesting and what the acceptable annual
14 replacement cost is. And you see the percentage there. Sometimes it's quite low.
15 Sometimes it's higher. It's actually a little bit more complicated than this, because, for
16 example, in schools much of this replacement is done as part of the modernization
17 program where a school has been modernize all these elements are updated. And so
18 the percentages for schools aren't quite as dire as this looks, but they still have needs
19 as well. And the same thing can be said actually for the county government to a lesser
20 degree, because they have less in the way of a modernization program and for the
21 college. I do want to acknowledge the folks who are here from the task force; Joe
22 Lavorgna from the school system is here; Dave Capp and Christina Shram from the
23 college; Mary Ellen Lavinsky from Park and Planning; and Harold Adams, who isn't
24 actually on the task force but probably did most of the work for DPWT, is here for the
25 county government. And they're here to answer any questions you might have about
26 specific aspects of this report, if you so choose. The report also talks for several pages
27 about the asset and inventory management systems that each of the agencies either
28 are developing or have developed, and how we're trying to keep up with just the
29 information of infrastructure maintenance. With that, I'll stop and see if you all have any
30 questions or reactions.

31
32 President Knapp,

33 I guess the first question I would ask is how -- I see some of these are operating and
34 some of these are actual capital projects. To the extent that we have those for capital
35 projects that we have already gone through with the CIP, how are we doing?

36
37 Glenn Orlin,
38 Well.

39
40 President Knapp,

41 Do you use this as a benchmark so that you -- so we have some comparisons?

42
43 Glenn Orlin,



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1 That's the point of this. And we are doing better than we had in past years, but we're still
2 falling well short. Part of it has to do with the goals we have. For example, on residential
3 resurfacing, as you know, the Executive has recommended a new way of doing
4 residential resurfacing, which the Council applauds, which goes away from micro-pave
5 towards essentially hot-mix asphalt-type of surface. But the unit cost of doing that is at
6 least five times as high as micro-pave. And although the Executive has recommended
7 considerably more funding for residential resurfacing than last year, and the Council has
8 gone along with that, it's not five times as high. So in effect we're -- we'll be providing
9 more quality in the work that's done, but less work. There are probably other areas like
10 that in the CIP where we're looking for better quality but not be able to keep up with the
11 increasing cost that's associated with that. Some issues we're doing fairly well with. I
12 think for example, the higher -- more high -- higher criticality. I don't think we're highly
13 critically; that would be wrong. Those items which are more important have a criticality
14 rating of five or four are generally doing pretty well. We're not keeping up entirely with
15 what we should be doing, but we have better percentages there generally than some of
16 the lower criticality ratings, which would make sense; for example, roof replacement
17 we're doing pretty well. The same is true with the life safety systems. But some of the
18 other basic infrastructure maintenance items like resurfacing and for parking lot repair,
19 for some structural elements in buildings, and PLAR , that sort of thing, we're not
20 doing as well. That's of a general statement. But again if you want to talk to any of the
21 facility managers who are here from their agencies, I'm sure they'll be glad to elaborate.

22
23 Councilmember Ervin,

24 I want to ask a question about the paving, the tar and chip versus the new paving. And
25 you're saying it costs five times more, but the way we were paving didn't last very long.
26 So we were -- the outlays of money to just keep redoing that really terrible paving as
27 opposed to doing it this new way; how long will it last?

28
29 Glenn Orlin,

30 The new hot-mix asphalt paving will last about 12 to 13 years; and the micro-pave, I
31 believe, was expected to last about six or seven years. So you're right, that's going to
32 last roughly double. Its useful life will roughly double. But I'll have to go back and check,
33 but I believe the figure I threw out was really a life-cycle difference in cost; it's costing
34 about five times as much in life-cycle terms to do the hot-mix asphalt than the micro-
35 pave. I'll have to check that. But it is quite a bit more. And again the Executive is
36 recommending a lot more money for resurfacing; not just for the basic resurfacing, but
37 he's also identified a lot of streets where the surface is so poor they're going to have to
38 actually dig up the existing surface and get to the sub-base and replace that, and put
39 down a new layer. And that's where the real big money is.

40
41 Councilmember Ervin,

42 Okay, thanks.

43
44 President Knapp,



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1 Council Vice President Andrews.

2
3 Vice President Andrews,

4 Thank you, President Knapp. And thank you, Glenn, for your presentation and for the
5 good work that's been done by the task force. There's a quote just before page 1 from
6 our late colleague Marilyn Praisner that says, there are no ribbon cuttings and few if any
7 press releases for maintenance and technology. These projects traditionally do not
8 compete well in budget deliberations. Nevertheless, these issues require out continued
9 attention and support. That was very well said, and I'm glad that the County Executive is
10 increasing funding for road paving -- maintenance of roads. That's something that is
11 very important. People really see that difference, and we're still catching up in that area,
12 as we are in other areas. The Council has generally in the past few years added funds
13 to the budget that's come over from the Executive, and I'm glad to see that the County
14 Executive is increasing funding for a number of maintenance items, because it doesn't
15 get the attention that new programs get, generally. But it is real important to maintain
16 what you have. And this report, which began three years ago, really is helpful to seeing
17 what the challenges before us. There was not this kind of documentation of the backlog
18 of maintenance of infrastructure, and this really is well done and gives us the good
19 information we need to make improvements. So I thank everybody who has participated
20 on the task force. It's important work. And it's really something that if we don't do a
21 decent job in this area, it will be noticed very quickly by people in our communities, and
22 we'll hear about it. So it's important to keep in good repair what you already have.

23
24 Glenn Orlin,

25 I should add that -- and you mentioned this in passing, actually what's happened in this
26 CIP is that there have been recommended increases by the Executive, also from the
27 agencies, for this kind of work both within the school system and county government
28 and some within the college and Park and Planning as well. So it's reflected.
29 Unfortunately, when you're looking at reconciliation next week, part of what you'll be
30 looking at probably is whether or not you can increase as much as what the agencies
31 and you have approved so far. Typically reconciliation is about compromises and trying
32 to maybe do more but not as much more; build a new project but maybe not as quickly,
33 that sort of thing. And I'm sure this is going to fall into that.

34
35 President Knapp,
36 Councilmember Elrich.

37
38 Councilmember Elrich,

39 Two things; one is I'm particularly concerned about the resurfacing issue because the
40 more expensive resurfacing, which I agree with is necessary to do, may not necessarily
41 result in our doing the same number of lane miles.

42
43 Glenn Orlin,
44 Right, it won't be a lot less.



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Councilmember Elrich,

And the problem that we face is it leads to other structural problems and changes the nature of the long-term repairs that we're going to be facing. And so when you talk about getting into the sub surface, the longer we delay surfacing issues, the more likely when we actually get down to doing the road, it's not going to be a surfacing issue, it's going to be a restructuring issue. And that's going to have serious implications. I do think that the better surface is a good step, but this is something we probably need to prioritize. Otherwise we're going to be looking at a bill that's much larger than this backlog, because it will change the nature of what's in the backlog. My other question was on the school bathrooms, which we have heard oh so much about over the last, at least two years I've been here. And I'm wondering is it -- what is the -- it looks like \$12 million is what the backlog amounts to. Is that true?

Glenn Orlin,

Actually, I don't think we covered school bathrooms in this report, because that would be a new item.

Councilmember Elrich,

I found it on page -- .

Glenn Orlin,

If it's there, then I apologize. Page four?

Councilmember Elrich,

Page -- circle 5; it says rest room renovation.

Glenn Orlin,

Okay.

Councilmember Elrich,

And you've got backlog of four for fixtures and eight for specialized. Is that what we need to bring all the bathrooms in the County up to suitable conditions?

Joe Lavorgna,

Good morning, Joe Lavorgna for MCPS. We are -- in our CIP this year is a request for a feasibility study to look at another group of rest rooms that need renovation. So I think that's in the ballpark, but we'll have a much better figure when we complete the next feasibility study for the next group of rest rooms.

Councilmember Elrich,

So it's just -- so if I were to ask that question about maintenance of school buildings in general. I mean, I've heard lots of discussion about the list that was done some years ago and how the schools were scaled and what schools were on the list and what



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1 schools weren't on the list. Are these assumptions here based on current data or are
2 they based on that older report and the assumptions going forward from that?

3
4 Joe Lavgorgna,

5 They are based on what we did with the current group of schools, in other words, unit
6 cost for those current group of schools -- for that current group of schools and for the
7 remaining schools that we have left. We're going to update that cost data based on
8 more recent costs.

9
10 Councilmember Elrich,

11 Will it also result in an updating of at least prioritization or working of that list?

12
13 Joe Lavgorgna,

14 Yes. The remaining schools, because there's a couple more years left on the list, and
15 then what we'll do is append to that list, prioritize the remaining schools that need to be
16 done.

17
18 Councilmember Elrich,

19 Okay.

20
21 President Knapp,

22 Councilmember Berliner.

23
24 Councilmember Berliner,

25 Just one brief comment on the paving issue. Nothing has infuriated my constituency
26 more than is shabby work that they experienced from the County with respect to the
27 micro-paving. It has so infuriated them that they were paying these taxes and then
28 seeing shabby work that they thought was just inappropriate and unworthy of our
29 County. So I do think that we have to spend more to do it right if we're not going to
30 undermine our constituent's confidence and that their dollars are being spent in an
31 appropriate manner. It may end up with we won't be able to do as many roads at the
32 pace that we would otherwise like to do. But that is the price we have to pay if we're
33 going to serve our people with the quality of services they expect and deserve.

34
35 President Knapp,

36 On page three, Glenn, you have critical shortfalls infrastructure maintenance. And the
37 first part of that list, County government HVAC, electrical replacement. The FY09
38 request is a percent of the acceptable annual replacement cost is at 18% or 100,000 of
39 what's 3.6 million. HVAC electrical replacement, what is -- what's the scope of that and
40 what's that actually doing to the various work environment for our employees?

41
42 Glenn Orlin,



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1 Let me bring Harold up for this one. This is county government -- while he's coming up
2 here, it covers heating, ventilation, air conditioning replacement -- boilers, chillers, other
3 elements of the system, which need to be replaced or renovated.

4
5 Harold Adams,
6 Harold Adams, the Division of Operations, DPWT. The question was how does the
7 HVAC systems and the backlog effect the people that are in the structures now; did I
8 get that right?

9
10 President Knapp,
11 Pretty much.

12
13 Harold Adams,
14 We're in a criticality state. When we have -- when we're only funded about 18% of it,
15 we're going to be able to only do those things that are rated as a very critical -- .

16
17 President Knapp,
18 Let me just stop you there because this whole category is a five. So you're saying the
19 most critical of the most critical.

20
21 Harold Adams,
22 And let me give you an example right here. You have seen the trailer outside that's
23 trying to keep our computer room cool while we wait for the capital project to catch up
24 with it and get it under control. That's the kind of solutions we have to deal with in order
25 to go. We're behind the curve on when some of these systems -- we changed the
26 compressors, we changed the fans, we keep them alive but that's it. Now the comfort
27 level is probably not effected all that much.

28
29 President Knapp,
30 So as far as air quality -- indoor air quality things like that -- .

31
32 Harold Adams,
33 Air quality is -- obviously if you increase air flow you get better air quality; that's dilution
34 is the solution to pollution. That, you know, yeah, we can do that with the existing
35 structures as long as they're mechanically sound and still working.

36
37 President Knapp,
38 Is this a CIP issue or is this an Operating Budget issue?

39
40 Glenn Orlin,
41 This is CIP.

42
43 President Knapp,
44 It's all CIP. All right.



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Glenn Orlin,

Let me add to mention in the packet, this is actually your opportunity add money if the Council so chooses that, because next week we're looking to cut money. So if you want to include funds in the CIP that's included for this item, you didn't have this information before you frankly until now, this is the opportunity.

President Knapp,

What is the -- thank you. If you have the list on page three here of these that are here, are these all most fives -- are these all most critical?

Glenn Orlin,

Not all of them are fives. Some of them are fives. Some of them are fours. There may be one that's a three. Frankly, what I did was -- first of all, these are all CIP items. As it appears that in most cases the items that are in the Operating Budget are being funded at roughly the level that the agencies are looking forward to the CIP items where they're short. Secondly, there are some areas which is harder to essentially pull out a specific PDF and say here is the shortfall. PLAR, for example, there's lots of different elements to PLAR. And in some areas the criticality is pretty low and in other areas it's pretty high. So it's hard to pull out a measure. So I can't say that these are the most critical, but these are the ones we can produce the clearest numbers frankly in terms of what the shortfall was compared to what the request was in the percentage. So you'll see for example roof replacement for MCPS 59%. That's actually really pretty good considering the fact it still doesn't take into account that a lot of the work in addition to this is done under the modernization program. So we're probably in good shape with roofs. But you're right HVAC in the county government we're doing particularly poorly on. And not doing too well with HVAC in schools either, although, again, the modernization program will cover some of that difference.

President Knapp,

And then, I guess, the next two that -- just kind of going through -- that look to be issues, the MCPS fire safety equipment?

Glenn Orlin,

Joe.

President Knapp,

I don't recall kind of discussing that in our CIP discussions.

Joe Lavorgna,

We are -- .

Glenn Orlin,



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1 The request was for \$450,000 in '09, but the need is for about 553,000 on top of that
2 based on the annual [inaudible].

3 Joe Lavorgna,

4 And a lot of that is being done -- . Much of that is being done through the modernization
5 program. We are, you know, our fire code inspections are up to date. This would be
6 replacing fire alarm systems in older buildings that are functioning but are near the end
7 of their useful life. And we are going to have to get -- begin to do more fire alarm
8 replacement work and things like that.

9
10 President Knapp,

11 So there's nothing, to your knowledge, in this fire safety equipment, even though it's
12 only a quarter of the request that is critically undone?

13
14 Joe Lavorgna,

15 Urgent -- right.

16
17 President Knapp,

18 Okay. Sure.

19
20 Vice President Andrews,

21 That's -- that is reassuring because that's certainly important to maintain safe schools.
22 And the Council did pass a measure back in 2002 which has resulted in -- which
23 requires annual inspections of schools for fire safety. And so we have a regular report
24 from the fire code inspectors as to what has to be replaced immediately and what needs
25 to be replaced at some point. So as long as you're adhering to their recommendations in
26 terms of their timeframe, then I think we're okay. And I want to make sure that that's the
27 case.

28
29 Joe Lavorgna,

30 What happens is, for example, this year we had a fire alarm system go out at Paint
31 Branch, and we couldn't get replacement parts, so we had an extended time under fire
32 watch where we had to get a fire alarm system put in on a school that's obsolete. And
33 we keep our fingers crossed that, I mean, it's going -- it was done, the system was up
34 and running, everything is fine. But it's those kinds of surprises that worry us down the
35 road.

36
37 Vice President Andrews,

38 Okay. There was a period in the late 90s and early part of this decade where schools on
39 average were not inspected for two to three years, and so that's changed and every
40 year every school is getting an inspection from our fire service.

41
42 Joe Lavorgna,

43 There are a lot of work with all of the inspections and any repairs that need to be made.



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1 Vice President Andrews,
2 Good.

3
4 President Knapp,
5 Councilmember Elrich,

6
7 Councilmember Elrich,
8 If I add up this stuff on page three, it's about \$33 million, somewhere around there. And
9 I didn't use a calculator. We would or should, if we were going to do this, would go into
10 the '09 CIP, right?

11
12 Glenn Orlin,
13 Correct.

14
15 Councilmember Elrich,
16 Which of course would compound our '09 CIP problem.

17
18 Glenn Orlin,
19 Right.

20
21 Councilmember Elrich,
22 As does everything we're talking about. I guess the other side of that is you talked
23 about, for example, that we're running a trailer to do something in lieu of this. Are there
24 any costs that would be saved? In other words, this is clearly in addition, but do we save
25 anything by doing this in terms of other costs so that we can, you know, is the net to us
26 somewhat less than what's here.

27
28 Glenn Orlin,
29 I would think it would be. Probably not in '09 itself but going on in terms of repairs --
30 repair costs. Whenever you replace an old boiler with a new boiler, you're most likely to
31 have to service it as frequently; at least I'd hope not.

32
33 Councilmember Elrich,
34 And if it's more efficient, less likely to use as much energy.

35
36 Glenn Orlin,
37 Use more energy [inaudible] stuff, right.

38
39 Councilmember Elrich,
40 So we would incur some savings by doing some of this stuff if we did it. Another thing
41 on the fire stuff, I mean, it's probably -- it's nice if you discover that the fire systems
42 failed when there's not a fire, but I -- what would be really bad would be to discover the
43 fire system doesn't work when there is a fire. So I'm not -- the fact that you don't have



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1 anything critical falling apart tomorrow, obviously you didn't think the one at Paint
2 Branch was going to fall apart tomorrow either; did you?

3
4 Joe Lavorgna,
5 No.

6
7 Councilmember Elrich,
8 So you could, on the one hand, not think it's critical to fall apart tomorrow, but in fact
9 could fall apart tomorrow and then we would have a problem. And the problem if one
10 thing if it happens if you discover it in a non-fire situation. A very different problem if you
11 discover it in a fire situation.

12
13 Joe Lavorgna,
14 What happened at Paint Branch was a power surge that wiped out the system.

15
16 Councilmember Elrich,
17 Yeah. I guess I would be interested in, at least, adding the stuff in for discussion. I
18 mean, we're just going to fall farther behind if we don't deal with this. This is the '09
19 shortfall, which will be accompanied by a '010 shortfall. And I think it's worth having a
20 discussion about where these things fit. Maybe not in the ball field renovations and
21 things like that would fall off, but certainly some of the system -- building systems
22 maybe those are things that ought to survive.

23
24 President Knapp,
25 Well, I was actually going to propose something similar. But I wanted to try and do and
26 see if -- I know Dr. Orlin is not doing anything else for the remainder of the day, but to
27 see if -- I was just trying to quickly go through here to see at least the most critical items
28 that are here. If there's anything else that's a five that we have greatly not funded and
29 be able to kind of discern what are the right things for us to put on this list. For example,
30 the HVAC replacement for MCPS; I know we've talked about and I'm not sure we would
31 necessarily go back and put a lot in there because -- a lot of it is captured in the MODS
32 program and what we're doing with a lot of those things if, I remember correctly.

33
34 Glenn Orlin,
35 Right.

36
37 Joe Lavorgna,
38 Right. But that -- if there was one item I would say in our bailiwick is HVAC systems
39 needs some serious inflow of cash.

40
41 President Knapp,
42 Well, if you could do that, we have everybody in the room and rather than kind of take
43 the next hour and go through here, if you could just kind of caucus with everybody and
44 kind of make -- see what's -- like Joe's just indicated for HVAC for them, as we just



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1 talked about for HVAC electrical replacement for Montgomery County government, just
2 see where the five or six things that we ought to have that we haven't put on our CIP
3 yet.

4
5 Glenn Orlin,
6 Do you want to give me a budget?

7
8 President Knapp,
9 Well, no -- .

10
11 Glenn Orlin,
12 I'm serious, in terms of how much money we could have, because you could add \$30
13 million. We've got \$2 million --

14
15 Councilmember Elrich,
16 He said we can't add anything, so I think the point is to put it in there and let's figure out
17 -- .

18
19 President Knapp,
20 No, I guess my point is I'd like to get a sense of what are the critical elements, and then
21 let's sit down this afternoon and figure out what we can put in for a number. I just want
22 to make sure we get the -- I'm not sure, given the list you've put here and scanning
23 through the list in the back, if this is necessarily the list or the comprehensive list.

24
25 Glenn Orlin,
26 I understand.

27
28 President Knapp,
29 And to the extent that we can get the key five or six things, and let's see what we need
30 to do from a budgetary perspective, and see what kind of framework we can put around
31 it.

32
33 Glenn Orlin,
34 Okay.

35
36 President Knapp,
37 Given the conversations you and I've had in the last two days, I'm not sure that we can -
38 - what we can do [inaudible] everything else. So what's going to fall off our list in order
39 to be able to fund these things? But if we could do that and then kind of, to your point,
40 get them in play this afternoon if we need so they're at least competing against the other
41 projects, I think that would be the thing to try to do. Okay.

42
43 Councilmember Berliner,



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1 When you give us the HVAC numbers if you would also give us some indication of what
2 the energy efficiency improvements would be, because I assumed that that investment
3 would in fact have an off-setting reduction in your electricity consumption, and I think
4 that's important for us to know in order to do a good cost benefit analysis of that
5 investment.

6
7 President Knapp,

8 Okay. No further questions; I don't see any. Pleased to see you could join us,
9 Councilmember Floreen, welcome. Okay. Now this is helpful and thank you all for your -
10 - thank you all very much for you input. This is critically important for us to make sure
11 we address. I don't know how much we'll be able to focus on, but we will need to make
12 sure we're at least getting these issues out on the table, so I thank you for your input
13 very much. Okay, Councilmember Floreen.

14
15 Councilmember Floreen,

16 Yes. Mr. President, I ask to be recorded in favor of Items number 9 and 10.

17
18 President Knapp,

19 Without objection.

20
21 Councilmember Floreen,

22 Thank you.

23
24 President Knapp,

25 Okay. We now turn to Chairman Leventhal for the HHS Committee for Capital Budget
26 Public Library, which is a continuation of our discussion on CIP projects for libraries,
27 which was touched on briefly this morning in our breakfast with the County Executive.

28
29 Councilmember Leventhal,

30 Thank you, Mr. President. I'm told that our Director of Libraries, Parker Hamilton, is just
31 now entering our building. So we can begin with an overview of the CIP that was sent
32 over to us by the County Executive from staff. I know Ms. Hamilton will want to be here
33 when we get into our conversation about any other options or committee options. And
34 there's a lot of in flux right now with respect to the library CIP. And let me also thank Mr.
35 Berliner, who guided the HHS Committee through its deliberations on libraries, and I
36 appreciate his work on this. Maybe if Mr. Berliner wants to make any comments about
37 libraries now, we're waiting for Ms. Hamilton to get here.

38
39 President Knapp,

40 Well I was going to say the one point I think we could potentially address before we do
41 that is go to agenda Item 13-1, which is the Germantown business incubator project,
42 which has a recommendation; if we could just touch on that one briefly.

43
44 Councilmember Leventhal,



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1 Okay. Sure.

2
3 President Knapp,
4 I don't know.

5
6 Councilmember Leventhal,
7 Sure, if we can dispose of that quickly, that would be good.

8
9 President Knapp,
10 Is that something we need Justina to do that; or I'm not even sure -- there's big issues. I
11 would turn to my colleagues on the PHED Committee, if this was -- see if there are any
12 [inaudible] on the Germantown business incubator project. Any perspective? I mean,
13 this was a 2-0 vote that took place. We just need to basically -- we address what was
14 already put in; what we've done in the Consent Calendar. It's effectively matching state
15 resources, and I was absent from that committee meeting, but it was voted on 2-0.

16
17 Councilmember Elrich,
18 I think this is the frustration [inaudible].

19
20 President Knapp,
21 Right, which is why I had asked this morning to have the incubator discussion come
22 back to the PHED Committee so I have a better understanding as we look at the
23 Operating Budget going forward.

24
25 Councilmember Elrich,
26 I think one of the points they made was that as expensive as this might appear that the
27 alternative of building new would have been even more expensive. So while it's
28 unexpected and unwanted in terms of additional burden, if we had set out from ground
29 zero the burden would even be greater. But it's one of those unfortunate things, I think.

30
31 President Knapp,
32 I see Justina has sprinted up from the fifth floor. Do you have anything to add? But I
33 think what basically allows us to not lose the state aid from DBED and from TEDCO,
34 which is 1.35 million, and so I think that's one of the more critical elements that we're
35 actually getting, almost double the return our of investment and gets this project moving
36 forward. Any comments from any Councilmembers? Okay, then without objection this is
37 adopted as part of our CIP discussion.

38
39 Pradeep Ganguly,
40 Thank you, Mr. President.

41
42 President Knapp,
43 Thank you.



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1 Pradeep Ganguly,
2 You know you're ten minutes ahead of schedule.

3
4 President Knapp,
5 Very good. Thank you for being here.

6
7 Councilmember Leventhal,
8 Okay. Ms. Hamilton is still on her way. But let's go ahead and have Essie McGuire give
9 us an overview of what the library CIP as recommended, and then we can go through
10 item by item in terms of what the committee's discussion was. And there are going to be
11 a number of items I think the full Council is going to want to discuss here this morning
12 concerning the library budget. Mr. Berliner, did you want to make a comment?

13
14 Councilmember Berliner,
15 I just want clarification, because I thought that the full Council had already basically
16 acted on the first three items the Davis and Potomac Library and the only library that
17 there was not any controversy with respect to those items, and that there definitely is --
18 there are issues with respect to the items starting on page 5. But I believe we've already
19 -- the Council, itself, has already acted on those items; am I correct with respect to that?

20
21 Essie McGuire,
22 That is correct. The packet, just for completeness sake, did reproduce the information;
23 however, you're absolutely right, the Council has approved projects one, two, and three,
24 Davis, Potomac and Olney and [inaudible].

25
26 Councilmember Berliner,
27 So our focus really is on Clarksburg, Gaithersburg -- .

28
29 Essie McGuire,
30 Beginning with Clarksburg.

31
32 Councilmember Berliner,
33 Silver Spring and Wheaton; those four [inaudible].

34
35 Essie McGuire,
36 Absolutely.

37
38 Councilmember Leventhal,
39 Thank you very much, Mr. Berliner. Hi, Parker.

40
41 Parker Hamilton,
42 Good morning.

43
44 Councilmember Leventhal,



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1 Under the strong leadership of Council President Knapp, we're actually ahead of
2 schedule. So we appreciate you joining us. So as Mr. Berliner has helpfully clarified, we
3 have unresolved before the Council the Clarksburg, Gaithersburg, Wheaton and Silver
4 Spring library projects. And we understand some progress has been made on some of
5 these projects. So, Essie, do you want to start and sort of guide us and then we can
6 have Parker explain to us how far along we are on those projects where we have made
7 progress?

8
9 Essie McGuire,

10 Certainly. Let's begin with the Clarksburg Library, which is on page five of the packet.
11 The Council did begin a discussion of the Clarksburg Library at its last work session but
12 was unable to complete its recommendation due to time constraint. The Clarksburg
13 Library was recommended by the Executive to be funded by development district
14 funding. The HHS Committee's discussion focused on approving planning and design
15 funding only in the expenditure scheduled for FY09 and 10, and changing the funding
16 source to GO bonds. The Council's discussion raised a number of concerns about both
17 the timing of the project given the uncertainty, and the scope relative to changes in the
18 site and changes in the design, and a number of issues going on there. And the funding
19 of the project, which of course will be resolved by the Council later this year. So
20 Councilmembers did raise those concerns and discussed options to possibly either shift
21 the planning funds to a different year in the CIP or to suspend the project all together
22 pending resolution of these issues.

23
24 Councilmember Leventhal,

25 Okay. Let me go ahead. I would like to hear from Parker, her thoughts on the status of
26 the project. But let me just say that we heard this morning in our breakfast with the
27 County Executive that it is important, and we heard from Mr. Orlin just a little while ago,
28 that it is important that we whittle down the \$300 million imbalance in the CIP. And
29 where we have any PDF that we just don't have confidence that what we're saying in
30 the PDF actually describes what is going to occur on the ground in the timeframe that's
31 in the PDF, any project that is under those circumstances is going to be a candidate for
32 whittling down here over the course of the next week. So we can offer up the Clarksburg
33 Library today, or we can put it off for a week, but the reality is so little is known and so
34 little is agreed upon both with respect to the project itself, the site, and the financing,
35 that I think it's highly likely that this is going to be a candidate for the cutting room floor.
36 Not that Clarksburg won't have a library at some point; there will be a Clarksburg
37 Library, but we just aren't, to the best of my knowledge, in a position to proceed
38 confidently and authoritatively. But, Ms. Hamilton, maybe you could comment.

39
40 Parker Hamilton,

41 Good morning. Thank you. I don't have any additional information that will give you
42 more confidence than we were able to give you last time. We have had one meeting
43 with the Planning Board trying to get additional information. There's a meeting
44 scheduled this afternoon with developers and some community folks from the



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1 Clarksburg area, and at that point in time we hoped to ask questions to try to find out
2 what we don't know. At this point, with we really don't know, so the conversation
3 continues. We don't have additional information to give you.

4
5 Councilmember Leventhal,
6 I'm going to go ahead and state my view on this. So as much as I acknowledge that
7 Clarksburg is a growing community, and I'm honored to represent it along with every
8 other community in Montgomery County, I just don't think there's enough known about
9 this project at this point to make a wise programmed dollars in the PDF. And we'd gone
10 back and forth on this, and the committee's initial view was that we might delete the
11 PDF altogether, and then we didn't want to make our constituents in Clarksburg unduly
12 worried. But I don't feel that we're giving them much confidence here if we're saying that
13 we don't -- there's just so much that's unknown. And there's a definite lack of consensus
14 among Councilmembers in terms of the financing. I'm not -- I can't tell you today what
15 the outcome is going to be on the establishment of the development district tax; I'm not
16 in favor of it. So I'm going to propose that we just take this out of the PDF and let the
17 Council act this morning so that we can assist Dr. Orlin as he tries to reduce the size of
18 the overall CIP. Mr. President

19
20 President Knapp,
21 I guess what to the point -- and I don't know where we'll go with the other projects. I
22 don't disagree with your assessment. I guess the question is, as we've talked about
23 language means a lot. And if we eliminate a PDF, whether we like it or not, it will be
24 reported as though we are no longer in favor of a library. And I don't think anyone is
25 saying that. The question is -- and I've had this conversation with Essie a little bit -- what
26 do we need in order to keep a PDF active -- just to keep it as an active PDF. Because I
27 think there is intent to build a library once we get all the questions answered. The
28 question just becomes -- I don't think the message we want to send to the community is
29 that we're not interested in building a library. So what do we need to do to keep a PDF
30 active?

31
32 Councilmember Leventhal,
33 Let me just -- if I could to the gentlemen from district two. You know, I also don't want to
34 tell the community that they're not going to get a library. At the same time, I don't want
35 to tell the community that they're going to get a library in the next six years, because I
36 don't think they will. So what we're looking at is this CIP right now. I don't think there's
37 going to be a Clarksburg Library given all the uncertainty in the time frame of this CIP.
38 So it isn't that -- at least my proposal would be that we make clear there will be a
39 Clarksburg Library but probably not in the timeframe of this CIP.

40
41 President Knapp,
42 What if we were to put some measure of planning and design money in 13, 14
43 timeframe, so we got to the next PDF and -- .



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1 Essie McGuire,
2 You could show it in any of the years. You could show it in the beyond six years. You
3 could.

4
5 President Knapp,
6 Yes.

7
8 Essie McGuire,
9 I mean, if you're interest is in keeping the program alive.

10
11 President Knapp,
12 I mean, show it in 14, so we got an active PDF. And not necessarily this number; I don't
13 even know what the right number is.

14
15 Essie McGuire,
16 Yes. This number was based on the recommended level of design by the Executive. But
17 as far as a placeholder for planning again you could pick.

18
19 Parker Hamilton,
20 I don't know what the number is, but I do believe that library service in the Clarksburg
21 area would probably be needed sooner than ten years. And so if we did have an
22 opportunity to get some of our questions answered and wanted to do some planning
23 with design that might be useful. But I think that to say that we have concrete answers,
24 we really don't but we do want to acknowledge that we want to plan for that library.

25
26 President Knapp,
27 I would say pick a number -- .

28
29 Essie McGuire,
30 Fourteen?

31
32 President Knapp,
33 In deference to the Chair, pick a number for year 14 so it's in, and that would be my
34 recommendation. Mr. Chairman?

35
36 Councilmember Leventhal,
37 Well, you're the one who is going to have to balance the CIP, Mr. President, so why
38 don't you pick a number.

39
40 President Knapp,
41 There you go; I like that. I'd take the 208 number in FY10 and move it out to 14.

42
43 Essie McGuire,
44 Okay.



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1
2 President Knapp,

3 And then we've got a number. And apparently that's as good a number as any other
4 number we're going to pull from the air, because no one seems to know what a good
5 number is. Councilmember Floreen.

6
7 Councilmember Floreen,

8 Well I got to say we're going to have figure this out, folks.

9
10 President Knapp,

11 On which? On the funding or actually the planning [inaudible].

12
13 Councilmember Floreen,

14 You know, we want to do everything. Frankly, we could have a whole PDF that says we
15 really want to do, you know, a thousand projects, but we don't have any way to pay for
16 any of them. So when we do this, you know, using this -- the CIP as a message
17 document, which technically it is, we're saying things we have no, you know, for the
18 things that we're ready to proceed with, that's one thing that we know in the next two
19 years. It's going to happen and we can -- we think we can put it into the budget. But I
20 think we have to be honest with ourselves about the purely academic element of this.
21 And I am particularly concerned about this one because the source of funds. I'm not
22 sure that you've talked about it at this point, but I don't think we've resolved it. We were
23 waiting for this to come to us from the MFP Committee with a recommendation with
24 respect to development districts. We have collectively different ideas and, you know,
25 that will be resolved one way or another. But to say that we're going to fund something.
26 I mean, I don't think we have agreement on how we would fund it, because it's intended
27 to be funded one way. The committee has recommended a different approach. I'm not
28 there. But I respect the fact that this would be a policy decision resolved by this Council
29 at some date relatively soon, I would expect. So to put it in and say we're going to fund
30 it at some point. What's the proposal with respect to the source of funds? It's supposed
31 to be funded by a development district money. That's not where I am.

32
33 Councilmember Berliner,

34 The committee was to use GO bonds.

35
36 Councilmember Floreen,

37 Right, yeah. Well that's not where I am. And the reason -- but I would certainly respect
38 the decision of this Council once it resolved the issue. Because that sort of
39 predetermines the resolution of that point, which I don't think is appropriate given the
40 timing. I'm not sure why we haven't had the, you know, come-to-Jesus moment on
41 development districts, but we haven't. And it seems to me we should resolve that before
42 we identify a source of funds. So I would much rather say, sure we'd like to build -- this
43 should be built at some point with some source of money. That's the best I can say at
44 this point. But to propose otherwise is, I think, to delegate the function of the



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1 development district conversation that is occurring in a different venue at this point. So I
2 think it's a mistake. You know, look we've got a whole collection of approaches to the
3 CIP. And frankly, anything as far I'm concerned that is scheduled to have happen after
4 the next two years is really quite an academic conversation, as far as I'm concerned. So
5 I don't -- it's not that I feel so strongly about this particular point, but I'll just say for my
6 colleagues here, you know, this is not a good way to run a business. I don't think. And
7 picking a number out of thin air that has no relationship to anything is not helpful
8 except to say -- send a message that we want to do it. And, you know, sure we want to
9 do it. But that's true of a gazillion items. And it's a bigger problem here, as I said, where
10 the source of funds is not where the plan had been to date. Until we plan -- we resolve
11 the development district issue, I think it's unwise for us to take a different approach and
12 to revert to take a different approach. Once we've decided it, okay, that's how we're
13 going to fund it. But to this point we haven't. So to change the source of funds, I think,
14 prejudices the issue. And I think it sends a wrong message to the community. So I don't
15 support the -- I support the motion to extend it, but I certainly don't support the motion to
16 say we're going to fund it with current revenue.

17
18 Councilmember Leventhal,

19 Let me just -- I acknowledge the difficulty of this for all Councilmembers. We don't want
20 any community to think we're not investing in their needs. We don't want any community
21 to think that we don't care about their desire for equity and services. But this library is
22 not going to make the substantial progress in the next six years that we would be
23 suggesting if we programmed funds now. So I acknowledge the obligation of again the
24 gentlemen from district two to make a stand for this library. And I represent Clarksburg
25 as well. And I do want my constituents in Clarksburg to know they will get a library, but I
26 don't think they're going to get it in the next six years. And so with great respect for my
27 friend, the Council President, who does a terrific job representing the up-county, I think
28 my preference remains that we just take the PDF out at this time and use the funds to
29 advance other projects that are well on their way and that we really can get done in this
30 timeframe. I agree with that point of Ms. Floreen. My own feeling of urgency about
31 resolving the development district matter is not as great as Ms. Floreen's is, since I don't
32 support the establishment of the development district in Clarksburg. I don't care whether
33 we resolve it now or never, since I don't want to see the thing established. But it does
34 lend an overall uncertainty about this. If what the County Executive suggested was that
35 the library would be done in a relatively expedited way with that source of funding. I
36 don't support that source of funding. There are other Councilmembers who don't
37 support that source of funding. And so there are many uncertainties yet to be resolved.
38 And what we've heard from the Clarksburg community pretty substantially -- I know that
39 those who email us and those who show up at our town hall meetings don't necessarily
40 represent, you know, the totality of community viewpoints, but if the community
41 understands that it is the absence of a decision to fund the development districts, which
42 they've overwhelmingly asked us not to create, that is leading to a delay in the creation
43 of the library, that may soften the blow if the press -- who knows what the press will ever
44 report. But if they report, you know, Council votes against Clarksburg Library. I'm not



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1 against the Clarksburg Library. I want there to be a Clarksburg Library, but there's just
2 too much that's unknown here. And I think we should not do the PDF. And I've gone
3 back and forth on this. So this is not an easy call.

4
5 Councilmember Floreen,
6 So I just reiterate my second then.

7
8 President Knapp,
9 Councilmember Elrich.

10
11 Councilmember Elrich,
12 I share George and other's opposition to the development districts. And so I don't want
13 this shown as being funded by the development districts. And I guess part of my
14 problem with showing in the early years than the later years is then if it's going to come
15 out of General Obligation that it jumps ahead of a bunch of other projects that are
16 waiting and have waited in the queue for a long time. And so I think that George is right;
17 people in Clarksburg do understand that the price of not doing a development district is
18 that this library gets built within a more normal timeframe within the waiting list that
19 everybody else is in. I'm comfortable putting a number in year '14 to start planning. But I
20 would suggest the number that looks -- I think the Wheaton number is like a million for
21 the first year of planning and a million for the second year of planning. And I would
22 suggest putting a million in for the first year of planning in FY14. And, you know, Nancy
23 could be right and we could resolve the development district in a way that some of us
24 don't agree with, in which case money will fall from wherever money falls from, and this
25 project could be moved to an earlier start. Or it may be that it winds up getting built in
26 years '15 and '16, or '15, '16 and '17. What I do want to avoid to your point is planning
27 something now which by the time we get around to building it will not be buildable by the
28 plans we've built now. Which means we already have experience with burning money
29 on plans of things that don't get built and then having the costs come in way over what
30 we thought they were going to be. So I would just as soon push the planning closer to
31 the date of when we think we're going to have construction. And by the time we get to
32 FY14 that Council will have a view of what their out-year budget -- their six-year CIP will
33 be, and whether or not this project will fit appropriately in that six-year CIP. So I think
34 the small amount of money in year '14 addresses Mr. Knapp's concern, and I don't think
35 it overly burdens our already very difficult CIP process at this point.

36
37 President Knapp,
38 Council Vice President Andrews.

39
40 Vice President Andrews,
41 Thank you, President Knapp. I just had a question first. And that is has it always been
42 the assumption that the library would be entirely funded by development district funds?

43
44 Unidentified,



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1 Yes.

2 President Knapp,

3 I believe that was the case. The only library in the county -- .

5 Parker Hamilton,

6 Yes.

8 Vice President Andrews,

9 On what page is the County Executive's original PDF?

11 Essie McGuire,

12 It's on -- I'm sorry -- circle 3 is the original PDF. And going back to the previously
13 approved PDF's for this, we're also with development district funding.

15 Councilmember Leventhal,

16 If you look at the funding schedule, the second box down on circle 3, the County
17 Executive's proposal was initially that it would be entirely funded, \$17 million,
18 development district fund.

20 Essie McGuire,

21 And it wasn't previously approved once as well.

23 Vice President Andrews,

24 Okay. All right. Well, I do support development districts, and I think it makes sense to
25 have a development district in Clarksburg. I don't know how it's going to end up in terms
26 of a division of General Obligation bonds and development district funds for the library,
27 but I suspect it's going to be a mix at some point. If we were to show a small amount in
28 year 14, obviously the library is not going to be completed in the six years. And I think it
29 would be unrealistic to think it would. But I don't have a problem with showing a small
30 amount in year '14 to indicate that we intend to get something started at some point in
31 the CIP. I would -- I would expect that there's going to end up being a mix of funding for
32 this library; at least I don't have an objection to having a mix of funding for it since it will
33 serve a larger community than just the development districts. While I want to see
34 development district funding towards the library and I want to see development districts,
35 I don't expect that the development district is going to end up funding the entire library.
36 So I don't have a problem with showing a small amount such as 208,000 in either
37 development districts or GO bonds in the year '14. And for that reason, I can support
38 what the Council President has suggested would be a way to indicate that the Council
39 intends to support a library for Clarksburg, but to make clear that it's not going to
40 happen in the next six or seven years. It may get started in six years, but I think it's a
41 reasonable approach to do that.

43 Councilmember Leventhal,



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1 Okay. I don't know if we need to vote on this, or do we -- several -- well, two
2 Councilmembers have not yet spoken, so I don't know what the sense of the Council;
3 should we vote?

4
5 President Knapp,
6 Well we have before us the Chair's recommendation.

7
8 Councilmember Leventhal,
9 The proposal is to take the PDF out altogether.

10
11 President Knapp,
12 Right, take the PDF out altogether.

13
14 Councilmember Leventhal,
15 If what the Council President wants to do is -- you could offer a substitute.

16
17 President Knapp,
18 Yeah, I think I would offer the substitute motion that we would put in -- I hear what
19 Councilmember Elrich is saying, although I'm not sure that we necessarily need to put a
20 million dollars in, because by the time we get -- we're going to have two more CIP's
21 before we get to that point. So I would say what Council Vice President Andrews said,
22 put 208,000 -- .

23
24 Vice President Andrews,
25 208,000.

26
27 President Knapp,
28 In year '14; keeps the PDF active, and I mean I think it shows our commitment to do it,
29 but recognizes there's an awful lot of planning that needs to come forward.

30
31 Councilmember Leventhal,
32 All right, I'm not going to -- .

33
34 Councilmember Elrich,
35 [Inaudible] I thought you meant 2.8 million.

36
37 Vice President Andrews,
38 No, no, 208,000.

39
40 Councilmember Leventhal,
41 \$208,000. Since the will of the Council appears to be expressing itself, I'm not going to
42 fall on my sword on this. I'm happy to vote for the Council President's substitute.

43
44 President Knapp,



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1 Okay. Is there any objection?

2
3 Councilmember Floreen,
4 Well, I -- well, to that point, I would request then that the PDF indicate in writing that the
5 source of funds will be -- may change depending upon Council determination with
6 respect to development district funding.

7
8 President Knapp,
9 That's fair.

10
11 Councilmember Floreen,
12 Because I think that's the point that needs to be.

13
14 President Knapp,
15 I think that's fine. Okay, I see no disagreement. Then that's the rule of the Council,
16 208,000 year '14 with the reflection that source of funds is still subject to policy
17 decisions to be made by the Council.

18
19 Essie McGuire,
20 And to reflect GO bonds for the 208?

21
22 President Knapp,
23 Correct.

24
25 Councilmember Leventhal,
26 So the next item that had been unresolved, but I understand there's been substantial
27 progress since the committee and the Council last discussed it, is the Gaithersburg
28 Library. Essie, if you have observations to share with us; and I know we're eager to hear
29 from Ms. Hamilton as to the status of the Gaithersburg Library.

30
31 Essie McGuire,
32 Let me give a quick review, and then, yes, absolutely, we need to hear the description
33 from Ms. Hamilton. As you mentioned, Mr. Leventhal, the committee has not yet
34 discussed or made a recommendation about this project because the Executive was, up
35 until very recently, reviewing options and alternatives for the proposed design of this
36 project. He has at this juncture made a decision and your packet includes on circle 15 a
37 description of the revised scope. I will be happy to let Ms. Hamilton describe it, but
38 basically it adds a significant number of gross square feet and includes a second floor.
39 We have received from OMB and DPWT a ballpark estimate for the new model of
40 between 23 and 26 million. We do not have any additional information as far as
41 construction schedule, cost break-out, you know, the other details of that estimate. And
42 DPWT has also estimated a design and development total of almost 2.9 million. Council
43 staff also would like to point out that there is a significant cumulative appropriation to
44 date in this project and that outstanding appropriation can be expended without further



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1 review unless the Council acts otherwise. So if the Council would like to insure its ability
2 to make future decisions about the final scope of this project, it must alter and
3 potentially rescind that appropriation; that is the Council staff recommendation. So
4 before we too farther -- much farther into the appropriation -- into the recommendation,
5 let me turn it over to Parker to talk about the project.

6
7 Parker Hamilton,

8 Thank you. We do have information on this project and we're really excited about it.
9 Based on your directions and also conversations with the community, we did go back
10 and had extensive conversations, dialogue, and as a result of those conversations with
11 the community and from staff, we made the recommendations to Mr. Leggett regarding
12 renovating a library that will serve the community today and into the future. And that
13 recommendation that he accepted will result in a two-story buildings with all library
14 services being on the first floor. And we will add for the very first time a drive-through
15 service window and a drive-through book drop, because the plan does not call for
16 additional parking. Based on what the community said in terms of being a gathering
17 place, we've added more place to meet, more meeting rooms, more tutorial rooms,
18 rooms to have [inaudible] conversation clubs. The diversity of that community is such
19 that we thought that having a satellite Gilcrest center as a part of the project would be
20 a good way to serve the residents of that community. So Mr. Leggett did like that option
21 and has recommended that option for the Council to consider. So we think what we
22 have is a library that has addressed the needs of the community and the staff, and that
23 will not only serve the present community but the additional population that we expect to
24 have in that area. And so we'll answer any questions that you might have.

25
26 Councilmember Leventhal,

27 So could I just ask do we have the dollar amounts now recommended in front of us? Did
28 the Executive Branch have them?

29
30 Essie McGuire,

31 What the Executive Branch provided was a design estimate of almost 2.9 million.

32
33 Councilmember Leventhal,

34 Essie, what page are you on? What are you reading from?

35
36 Essie McGuire,

37 The top of page 7.

38
39 Councilmember Leventhal,

40 Okay.

41
42 Essie McGuire,

43 The top of page 7, third paragraph down. These are the numbers that we have received
44 from the Executive. A ballpark estimate of 23 to 26 million, and a design and



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1 development total of 2.9. The Executive did not provide an additional schedule and
2 breakout as you would see on a PDF. So in the absence of that, again, Council staff has
3 recommended programming and appropriating to the level of design.

4
5 Councilmember Leventhal,
6 And not appropriating construction?

7
8 Essie McGuire,
9 Correct.

10
11 Councilmember Leventhal,
12 But the department is proposing that construction would begin in FY10?

13
14 Essie McGuire,
15 Yes. The central difficulty here is again we have very rough ballpark estimates to work
16 with. If the Council would like to program something more specific we could do that, but
17 we don't have that information officially. So what we have are, again, these estimates
18 and a very large outstanding appropriation amount. Certainly I agree that it seems that
19 the project is on track to begin imminently, but from a CIP standpoint, this is what we
20 have.

21
22 Councilmember Leventhal,
23 And, Mr. President, why don't you see whose light is on.

24
25 President Knapp,
26 Council Vice President Andrews.

27
28 Vice President Andrews,
29 Thank you very much. First I want to say this is a tremendously improved proposal from
30 the original proposal that we had. And I thank Parker Hamilton and the County
31 Executive for taking a second look at that and working with the community on this,
32 because the first proposal was just inadequate in terms of the amount of space that
33 would have been added, which was only 1500 square feet to a library that is the second
34 busiest in the County; 870,000 items circulated every year. The meeting rooms are
35 chocked full all the time. And so I understand the proposal would be add a second floor,
36 move the meeting rooms upstairs freeing up extra space on the first floor for traditional
37 library services; expand the first floor a little bit from where it is now; keep the parking
38 the same; add the drive-through to help with the drop offs; and add the Gilcrest
39 satellite center upstairs. So that's essentially the proposal. It adds 22,000 square feet to
40 a 33,000 square-foot building. So it's a significant increase in space for the library itself,
41 which is critical in addition to the renovation of the guts of the building and HVAC
42 systems and so on. And so I'm very happy to see that the proposal, which I think really
43 will serve the community well. And I think it's critical that we get the design going on this
44 and that we get it built. I mean, I think there are different ways to look at how you



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1 program the remainder of it. And I understand it's hard to have a good estimate before
2 you do the design. But I would at least want -- I think there are some different views on
3 this, but I at least want the Executive to be encouraged to come back if we don't
4 appropriate the full amount in the CIP at this point, but the Executive be encouraged to
5 come back when the design is done for a CIP amendment next year to get it going.
6 When we have a, you know the best estimate possible. So my main concern is getting
7 his new design done and moving this along. Because I think we're on the right track
8 now, and that's priority one for me is to get the design done for this library, and to send
9 a clear message that we want to move this along. And I would hope that if we don't
10 program this full amount in this CIP that we would all be open to having a CIP
11 amendment come back when the design is done in order to keep it going.

12
13 Councilmember Leventhal,

14 I would like to comment on that, but Mr. Elrich has been waiting. I'll yield to Mr. Elrich,
15 and then if I could comment after he's done.

16
17 Essie McGuire,

18 I just wanted to clarify one issue of that the current proposal -- the current
19 recommendation that stands from the Executive to get to the issue of the PDF does
20 include about \$10 million of placeholder funds. So I just wanted to clarify that, you know,
21 you get the staff recommendation was to pull that back to design. We don't have the full
22 cost of the construction dollars that would go out. What we do have is a \$10 million
23 placeholder that's been recommended by the Executiv. I just wanted to clarify that that
24 was what stands at the moment.

25
26 President Knapp,

27 Councilmember Elrich.

28
29 Councilmember Elrich,

30 I would feel more comfortable using a number that's the mid point of 23 to 26 million
31 and putting it into the CIP. For the same reason we've talked about doing this on other
32 projects, like fire stations and, you know, police stations. We're just deluding ourselves if
33 we just put design money in there or use an unrealistically low number, because that
34 allows us to go forward with design of projects which at some point we're not going to
35 be able to build. In which case we will have -- thinking that we were going to do all of
36 these things. We'll design stuff, not build it, and have effectively burned the design
37 money on things we're not going to build. So I disagree somewhat with Nancy's view
38 that the only part of the CIP that's real is two years; I would like to believe that the CIP is
39 mostly real for six years and we're mapping out where we want the County to go over
40 six years. I want this library built. I want the construction funds built into this. And we are
41 going to have to reconcile a whole lot of other things. But it's almost \$300 million worth
42 of stuff right now that we've got to prioritize. But not prioritizing it today -- well not today
43 but by the time we finish this budget doesn't mean that the reckoning is not going to
44 come later. And I would really regret taking a project out two years from now because



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1 we decide we really were serious about this library to begin with. And then take out a
2 project that we spent money on design for. So I'd rather be more realistic and put the
3 money in here now for this and everything else that we really think we're going to build.

4
5 President Knapp,
6 Chairman Leventhal, I just wanted to add one point. I appreciate the sentiment that you
7 raise, Marc, and I think that the -- Councilmember Elrich -- that the challenge -- and we'll
8 see this when I start circulating stuff later in the next day or two, is going to be -- the
9 question will be how much do we put in for design versus how much do we actually put
10 in the for a reserve to layout the capacity to fund various projects. It's going to be a
11 matter of -- what's our current implementation rate?

12
13 Hamid Omidvar,
14 For the all CIP projects?

15
16 President Knapp,
17 Is that for county government? What do we have roughly 50%?

18
19 Hamid Omidvar,
20 For buildings I think it's about between 50 and 60%.

21
22 President Knapp,
23 So roughly half of what we're going to, you know, where we are isn't going to come
24 through, so we're going to have some flexibility there. So I agree with the point that
25 you're raising, but I think we're -- that's you'll see in what I present, I think, a way to
26 accomplish what you want to try to achieve with giving us some capacity to get those
27 projects moving forward.

28
29 Councilmember Elrich,
30 I thought we'd also try to achieve a better build rate. I mean I thought that, you know,
31 we've re-raised the issue as -- in critique of the low implementation. So I don't want to
32 go forward assuming that we're going to continue a low implementation rate. I would like
33 to figure how do we get to the implementation rate we think we ought to be working.

34
35 President Knapp,
36 I think that will be a step-wise approach too, which will then impact your future years in
37 the CIP. Chairman Leventhal.

38
39 Councilmember Leventhal,
40 Well after listening to this, this is a very help -- I mean, we're really making decisions
41 here, and we're feeling each other out, and finding out where we are. I come out in the
42 same place as Marc for a slightly different reason. I don't have any confidence that
43 County Executive is going to send us any supplementals ever. I really don't. I mean, we
44 met with him this morning. He's in a very cost constrained environment. And if we don't



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1 include it in the CIP, I don't have any confidence that we'll see it. So if we want this to
2 be done, and, you know, that's what I'm hearing from Mr. Andrews. And we've, you
3 know, those of us who are at-large members have heard about the need for this year
4 after year after year that it's over crowded and inadequate, and folks in Gaithersburg
5 and Montgomery Village and, you know, all in the Quince Orchard and, you know, that
6 whole area finding this inadequate. And it affects other libraries. And, you know, it's a
7 big problem. So if the Council wants this to be done then having listened to my
8 colleagues, I think we ought to suggest that it be done with a commitment in the CIP.
9 Because if what we're saying is let's just pass the CIP now and then when the County
10 Executive is ready we'll look forward to his sending us the supplemental; he's not
11 sending us a lot of supplementals. I mean that's just not where he's at.

12
13 President Knapp,
14 Councilmember Floreen.

15
16 Councilmember Floreen,
17 Thank you. Well, I'd like to return to the basic project. You're adding 2 -- at this point it's
18 a total addition of 22,000-plus gross square feet. Why -- this is one of the heaviest, if not
19 the heaviest used library in the system. Why are you proposing to add the satellite office
20 of the Gilcrest Center there, in terms of the -- not that that isn't a desirable objective,
21 don't get me wrong. But this is a heavily used library with not a lot of parking, and will
22 we have sufficient library services here?

23
24 Parker Hamilton,
25 We believe that we will. We believe that the questions asked by that community should
26 be answered for its point of contact. What is happening now is that the community who
27 would use the Gilcrest Library is coming to the library and the library staff is either
28 trying to answer the questions or either referring them to the Gilcrest Center, which is
29 located in Wheaton. So we believe by having a Gilcrest Center there we begin that
30 collaboration and partnership, and the questions can go directly to the experts who can
31 answer it.

32
33 Councilmember Floreen,
34 Well this is true. But I'm worried about the library function, for which there is tremendous
35 demand. Did the -- have you had a chance to share this direction with the community?

36
37 Parker Hamilton,
38 We have sat -- .

39
40 Councilmember Floreen,
41 Advisory board or, you know -- .

42
43 Parker Hamilton,



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1 We have communicated with them and we have talked with staff, and we believe that
2 this is very workable.

3
4 Councilmember Floreen,
5 Well, what do they think?

6
7 Parker Hamilton,
8 They believe that it is workable.

9
10 Councilmember Floreen,
11 Well, I -- if there are people who have issues with this, I would like to hear it, because
12 we have been worried about this for some time. But having a just selected, like the other
13 day, this approach; when will it be then designed and ready for construction? You've got
14 construction money in '09, as I read the PDF.

15
16 Hamid Omidvar,
17 The way the project is currently scheduled, and based on the Executive
18 recommendation, we're proceeding with the design of this new idea about the beginning
19 of Fiscal Year '09, July. We are at that two-thirds. We are at the end of design
20 development, which then the target number is clearer to us. That's the number that we
21 always -- that's the date that you always set to come back to the Council and let you
22 know about the better construction number. And same time next year -- .

23
24 Councilmember Floreen,
25 So you're going to have to redesign it -- you're going to have to redesign it?

26
27 Hamid Omidvar,
28 We have started redesigning it, and by the end of this fiscal year, we would have
29 finished the design development. And by the end of the next fiscal year, we are ready to
30 go to the construction.

31
32 President Knapp,
33 So FY10.

34
35 Councilmember Floreen,
36 So then you're not going to start construction until Fiscal '10?

37
38 Hamid Omidvar,
39 Correct.

40
41 Councilmember Floreen,
42 Okay, well then the dollars need to reflect that, because that's not how the PDF reads
43 now. So I'll make that point. You don't need construction money in '09 then. You might
44 need more design money.



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Hamid Omidvar,

We do not need construction money in '09. The construction expenditure doesn't start in '09, but definitely the contract for the construction can be struck at the end of Fiscal Year '09.

Councilmember Floreen,
Sure.

Hamid Omidvar,

The construction starts beginning for Fiscal Year '09.

Councilmember Floreen,

Yeah. Okay. Well, I think the PDF can reflect that. Well good. And if there are issues though with it, I would hope that the additional space for the Gilcrest Center be structured in a way so that if you need it for library functionality it will be available for that in long term.

President Knapp,

I had some questions on the scope a little bit. So we're going to almost double the size of the building but we're not going to do -- we're not doing anything for parking.

Parker Hamilton,

No additional parking.

President Knapp,

No additional parking.

Parker Hamilton,

No additional parking space, that's correct.

President Knapp,

So how much more -- how many more patrons do we expect to serve by increasing the size of the facility? Do we expect by having a bigger facility that we'll have more people, or do we just ease the use of those people who are already using the facility?

Parker Hamilton,

I think the primary goal is to ease the use of the people who are already using the facility. But, yeah, whenever you put in different stuff you should expect additional customers. And then we do expect a population growth and everything. But we've worked with the staff on this plan. They've been involved in the very beginning. The library manager has been at the table at every meeting. And so we believe that we are on the right track here.



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1 President Knapp,

2 How is the -- how -- any time I've been there I've always fairly easily been able to find a
3 parking space, but I don't know if that's reflected. Is that, I mean, is the parking capacity
4 -- is it at capacity now?

5
6 Parker Hamilton,

7 I believe it is the majority of the time. But Mrs. Snyder has also said that, you know, as
8 we look at this, there was an agreement at one point with the building kind of down the
9 steps that used to hold a MCGEO office, so that is a possible overflow, and we'll look
10 into that if it becomes an issue.

11
12 President Knapp,

13 Okay. Because I guess my concern would be depending upon what that other use is,
14 which I don't disagree there's a need for a greater meeting capacity there. But if you
15 now have tremendously expanded meeting capacity, then you obviously have greater
16 people coming to park. Because I think there's a bus stop right around the corner, but
17 it's not hugely served by transit. You've got the transit center that's probably three-
18 quarters of a mile to a mile down the other end of the road, so it's not like people are
19 going to take it there and then walk.

20
21 Parker Hamilton,

22 Currently what is happening is an example, if you go to the Gaithersburg Library and
23 you walk into the large meeting room, you will find that there are probably five to six
24 conversation clubs taking place. And plus there's a club taking place in the kitchen.

25
26 President Knapp,

27 And you can hear all of them.

28
29 Parker Hamilton,

30 And so -- that's right. And so they're parking but they don't have the space in order to
31 have an appropriate session. So this will help that. We will add world language. We'll
32 expand the children's area.

33
34 President Knapp,

35 So it really is not expected to expand utilization as much as just to expand the ability for
36 those groups currently using the facility.

37
38 Parker Hamilton,

39 I think that Mrs. Snyder would love to become the highest circulating library in the
40 County again. So we do expect some increased use because we're going to put the
41 world language there and we expect those books to go out. But I think the primary
42 reason is to provide a comfortable environment to have a positive library experience.
43 Folks are crowded. They're very crowded.



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1 President Knapp,
2 Well depending upon what we do with the Clarksburg Library, between Germantown
3 and Gaithersburg, I would guess that capacity -- their need to expand will be significant
4 and will probably be the top heavily used libraries in the County. Where's the cost of our
5 last library to build?

6
7 Hamid Omidvar,
8 Germantown Library or [inaudible].

9
10 President Knapp,
11 That was our last completed -- .

12
13 Hamid Omidvar,
14 Yes.

15
16 President Knapp,
17 Well Germantown or Rockville, I guess.

18
19 Hamid Omidvar,
20 Right. Both of them almost finished at the same time. They were different. The
21 Germantown Library was -- they were both close to less than \$20 million, but each one
22 had different situation; that this one is more regional. It has offices of the public library
23 and other offices on it, but with a smaller site and a smaller site work. Germantown
24 Library had more site challenges but it was 40,000 square foot compared to 100,000
25 this one. So they were both close in terms of dollars. But of course there are pre-
26 extreme cost escalation dollars. With today's dollars, I wouldn't imagine if we could do
27 any one of them with those monies. Gaithersburg Library, although the configuration of
28 the library is not necessarily an urban configuration, but it is now in an urban situation.
29 And physically you cannot expand the parking. There's no room to even add a single
30 parking on it. And then the Executive did not want to expand our zone [inaudible]
31 because there's only limited amount of green space around the library, and we wanted
32 to preserve it as much as we could. So it was picking the best of the world and coming
33 up with a thing that makes sense. And going up is frankly responding to all of the above
34 good accommodations.

35
36 President Knapp,
37 I guess the other think that you may want to do is to have some conversation with
38 DPWT or transit to see what we may want to do to modify service to that area. Because
39 I think there is a stop right there on the corner, but I'm not sure what the frequency of
40 that stop is. But if you're going to have the kind of brand new library that a number of
41 people are going to want to frequent, we can't do parking. I'm not saying that we should
42 necessarily increase parking, but you're going to have make different accommodations.
43 So [inaudible] just to have that conversation with the transit folks to begin to look at that
44 before we make the changes.



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1
2 Parker Hamilton,

3 And Lillian just reminded that as we talked about the parking area, having the drive-
4 through was very important because now the customers who don't want to park in the
5 first place have an option to drive through; so that will help as well.

6
7 President Knapp,

8 Right. And just the Gilcrest Center; so does this pull the services of the Gilcrest --
9 because the Gilcrest Center is in Wheaton, but it also has satellite activities at the
10 County Regional Services Center. So does that take those services and move them
11 down to Gaithersburg, or does that supplement what's already going up there?

12
13 Parker Hamilton,
14 Supplements.

15
16 President Knapp,
17 So we'll have some services there, some services at the library?

18
19 Parker Hamilton,
20 That's correct.

21
22 President Knapp,
23 Okay. All right. So, Essie, we need to figure out how the numbers are actually broken
24 down.

25
26 Essie McGuire,
27 Yes, we do.

28
29 President Knapp,
30 So what's the issue as it relates to the current appropriation relative to what we need to
31 do to actually what's in the PDF?

32
33 Essie McGuire,
34 Well, the current appropriation -- depending upon what the Council would like to do. If
35 the Council wants to appropriate to the level of design, which is the Council staff's
36 recommendation, to give them enough money in hand to complete design in this fiscal
37 year, that would require a [inaudible] appropriation of \$7.3 million. That would
38 completely cover their design costs for '09. The expenditure schedule is a separate
39 issue, but of course related depending on what the Council would like to program in the
40 expenditures. We have the Executive's programmed placeholders, which are about 5
41 million each year in '09 and '10. And as Ms. Floreen pointed out, they do include
42 construction in '09, which is clearly not the current schedule. If the Council is interested
43 in the full cost and schedule I can certainly work with DPWT and OMB to secure that
44 and put that forward. That would be a significant cost increase over what's there now.



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1 Or we could pull it back to design, which is again the Council staff's recommendation
2 reflected here. I'd like to make one comment. The numbers in this recommendation are
3 significantly smaller than the ones we've been talking about because of all the
4 preprogrammed expenditures prior to this year. So it mathematically works; it looks very
5 low. But I have been over that with OMB and we agree on the math.

6
7 President Knapp,
8 Chairman.

9
10 Councilmember Leventhal,
11 I don't understand that last point.

12
13 Essie McGuire,
14 Yeah.

15
16 Councilmember Leventhal,
17 So it's 20-million library but we're going to build it for 10 million because we've already
18 spent 10 million.

19
20 Essie McGuire,
21 No, no, no. I was really referring only to the design dollars. These dollars do not cover
22 the cost of a \$20-million library at all. These are -- .

23
24 Councilmember Leventhal,
25 23 to 26 million.

26
27 Essie McGuire,
28 No, these are placeholders related to the old estimates in the old schedule. I was
29 referring to my recommendation, which you see in the table on the middle of page 7,
30 only shows almost a million dollars in '09 for design. That is because we can rely on
31 preprogrammed expenditures to complete the design estimate in '09.

32
33 Councilmember Leventhal,
34 Okay, well I was hoping that we would find items among -- today that would enable us
35 to reduce the size of our CIP, but it seems that the library department has made a lot of
36 progress in the planning on this facility. And this is the library that I've heard the most
37 about countywide that, you know, the need is the greatest.

38
39 President Knapp,
40 Sure.

41
42 Councilmember Leventhal,
43 So it sounds as though the most Councilmembers who have spoken want to put in the
44 money for construction. And unfortunately, it sounds as though it will be ready for



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1 construction in FY10, which is our -- the bad year. So we're making your problem
2 worse, Mr. President. But that appears to be the Council's thinking at the moment.

3
4 President Knapp,

5 So we would need to -- given what you just described, even if the Council wanted to
6 fully program the funds, we would still do a negative appropriation for FY09?

7
8 Essie McGuire,

9 Yes.

10
11 President Knapp,

12 And then program the dollars out in '10 and '11?

13
14 Essie McGuire,

15 Yes.

16
17 President Knapp,

18 Okay. Do you want to get with folks and figure out what those numbers look like?

19
20 Essie McGuire,

21 I can. If the -- I just want to clarify if the Council wants program that, you know, we can
22 certainly circulate that around I think fairly quickly. But it would bring it up to again
23 between \$23 and \$26 million beginning I think mostly in '10.

24
25 President Knapp,

26 Council Vice President Andrews.

27
28 Vice President Andrews,

29 Just had a question. What's the construction timeframe -- how long can construction
30 take?

31
32 Hamid Omidvar,

33 We think it, for the most part, it should be done by the end of Fiscal Year 10, maybe a
34 little bit into '11. I don't have the exact schedule, but because it's renovation and
35 addition, I guess it must be a little bit longer.

36
37 Vice President Andrews,

38 So you could show some of the construction money in FY11 then.

39
40 Hamid Omidvar,

41 Yeah.

42
43 Vice President Andrews,

44 And break it up.



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1
2 Hamid Omidvar,
3 I can look and tell you.

4
5 President Knapp,
6 Well let's go with that. Let's -- if -- is it okay?

7
8 Councilmember Leventhal,
9 That seems to be the view of the Council.

10
11 President Knapp,
12 Do the negative or do negative appropriation for this year -- for next year, and then
13 allocate over '10 and '11 for what's needed, what needs to be done before actual
14 construction.

15
16 Essie McGuire,
17 And I'll get actual numbers.

18
19 President Knapp,
20 And then the only question I would have is the 23 to 26 million total cost; does that
21 include what we already will have expended to date, or is that above and beyond what
22 we've already expended for planning and design?

23
24 Essie McGuire,
25 I think above and beyond, but I'll need to work that out with OMB and Hamid.

26
27 Hamid Omidvar,
28 I'm sorry the question was -- .

29
30 President Knapp,
31 The question was we've already spent what 2 -- ?

32
33 Essie McGuire,
34 Two-ish.

35
36 President Knapp,
37 Two-ish, so is the 23 to 26 in addition to the money we've already spent, or does it
38 assume the money that we've already spent? So effectively we're looking at \$28 to \$29
39 million range.

40
41 Hamid Omidvar,
42 The entire PDF, including what has been spent, is \$2.88 million, the PDF, if that covers
43 all these designs.



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1 President Knapp,
2 Okay, But does your 23 to 26 include that \$3 million, or is that \$3 million in addition --
3 above the 23 to 26 that you've identified as a ballpark estimate for the new model.

4
5 Hamid Omidvar,
6 I think it includes -- it includes.

7
8 President Knapp,
9 Okay. Good. Look at that.

10
11 Vice President Andrews,
12 The total design including what's already been done is estimated to be 2.9 million?
13 Okay.

14
15 President Knapp,
16 Of which -- and that's included in the 23 to 26? Okay. All right. Thank you Mr. -- .

17
18 Councilmember Leventhal,
19 Okay, so we'll get the revised numbers from Essie. So the next item is the Silver Spring
20 Library, which also has some uncertainties about it. But progress is being made. We
21 know some things, and we don't know others.

22
23 Essie McGuire,
24 Uh-huh, that's true. The committee's recommendation on the Silver Spring Library was
25 to approve the Executive's recommended expenditure schedule, which again reflects
26 primarily placeholder dollars in '09 and '10, and it does show -- if you look at the PDF, it
27 shows construction -- the PDF for this one is on circle 9, and it does show construction
28 beginning in this year, again, because it's a carried over schedule to leave capacity. So
29 at any rate, the HHS Committee concurred with that recommended expenditure
30 schedule to leave the capacity recommended in FY09 appropriation of 1.775 million to
31 cover the current planning and design estimate that the Executive has provided. Since
32 that discussion we do understand from the Executive Branch that an FY08
33 supplemental for land acquisition should be forthcoming. And when the Council gets
34 that, obviously, you can consider it, and hopefully that would clarify a little bit about the
35 land acquisition dollars and the timing, and then the potential schedule for when the
36 design could commence. But this recommendation would provide sufficient funds to
37 cover design in '09.

38
39 Councilmember Leventhal,
40 Parker, do you have anything further you want to share with us on the Silver Spring
41 Library?

42
43 Parker Hamilton,



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1 Not at this time. I think the -- we are making progress, and we look forward to having the
2 funding in order to continue making the progress.

3
4 Councilmember Leventhal,
5 So the committee's recommendation is before the Council.

6
7 Councilmember Ervin,
8 Can I ask a question of Diane Schwartz-Jones? I see you're here and not Gary Stith; so
9 I'm just curious about what you can add about the supplemental for land costs. I'm just
10 curious about what you're looking at right now.

11
12 Diane Schwartz-Jones,
13 I don't have those dollars with me, but we do have all the properties either under
14 contract and that last -- I'm sorry, I don't have a voice.

15
16 Councilmember Ervin,
17 That's okay.

18
19 Diane Schwartz-Jones,
20 The last one is in condemnation, and so those would be reflected in the supplemental.

21
22 Councilmember Ervin,
23 Okay.

24
25 Diane Schwartz-Jones,
26 I don't know if OMB has anything more specific to answer your question.

27
28 Unidentified,
29 Yes, I can confirm that we are finalizing the supplemental, I believe probably as we
30 speak. Debbie is just meeting with the County Executive, and it should be to the Council
31 either today or tomorrow.

32
33 Essie McGuire,
34 Just to comment, from the perspective of the expenditure schedule, you know, it could
35 be that the supplemental clarifies some of that timing, but again what funds to program
36 here are subject of course to the reconciliation conversation that has been going on.

37
38 Councilmember Leventhal,
39 Mr. Vice President, I can't see the lights, so you'll need to call on other members.

40
41 Vice President Andrews,
42 Councilmember Elrich, I think, is next.

43
44 Councilmember Elrich,



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1 I guess I'd ask the same question that I asked about the Gaithersburg Library, or apply
2 the same thing. There's a bunch of uncertainty, even if we acquire the site about design,
3 correct? Because of the potential of the Purple Line that would affect the design of the
4 building; is that correct? At least I've heard this so.

5
6 Hamid Omidvar,

7 We are getting closer and closer to making certain. These are the facts that we know.
8 We know that there is a Purple Line plan envisioned by the State to go through the site
9 diagonally. So we're respecting it. So in our scenario now we are trying to respect that
10 and make sure that the library is not compromising the Purple Line. And we know that
11 also this site has potential for other housing and whatnot development; not necessarily
12 on top of the library or below it, but on that site. And we also know that the majority of
13 desire is to also have the library, if possible, as a standalone library so it could proceed
14 as a standalone library as quick as possible. We think these are all workable. We are
15 producing site configurations that represent these things. We would present these to the
16 Executive. And just like the Gaithersburg Library, I'm sure, he would make a decision,
17 and then we would be able to come back. And all these decisions as far as the design
18 goals are, we think, could be made within the next thirty days or so. However, in terms
19 of the parcel that needs to be acquired and that you only need that for the construction
20 not for the design. We can always start the design.

21
22 Councilmember Elrich,

23 So would you -- I guess my question is a timing question. Would you have designs that
24 are far enough along that you could build in FY09, which is suggested I think by the
25 almost \$6 million that's in -- ?

26
27 Hamid Omidvar,
28 [Inaudible].

29
30 Councilmember Elrich,

31 So should a PDF look like money in '09 for design and then money for construction in
32 '10 and '11? And then if we're putting money in construction for '10 and '11, should that
33 be a real number? I mean, do you have like a -- do you have like a more real
34 assumption about what this library is going to cost other than a placeholder of \$12
35 million, which I don't think the library is going to cost. Is this going to be another \$23
36 million library?

37
38 Hamid Omidvar,

39 I think the number you see in that PDF was the previous PDF, and the intent was to not
40 modify yet until the new schedule and the new numbers are better known. So that's
41 what you see. So I don't have a good answer for you, because -- .

42
43 Councilmember Elrich,



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1 Well I guess if this is going to go forward with the same certainty as the Gaithersburg
2 Library is going to go forward, in other words, you can plan it, you can design it in '09,
3 and you can build it in '10 and '11; and I think that people want the library built in '10
4 and '11. Valerie, you can correct me if I'm wrong. My assumption is they want it built in
5 '10 and '11. Then shouldn't our '10 and '11 number be a real number rather than a
6 number that's so low that it's not real?

7
8 Hamid Omidvar,

9 I can tell you that certainly we can start the design in '09. We know we have interested
10 parties or partners definitely state where the Purple Line is one of them that we have to
11 work with. So what complication that may bring in, I don't know. But we can start
12 definitely the design in '09. Construction is a different is a different issue. But definitely
13 design can start in '09.

14
15 Councilmember Elrich,

16 And I wish we had the same certainty or could build into the budget a level of certainty
17 that we're going to do this the way we're saying we want to do the Gaithersburg Library.

18
19 Councilmember Leventhal,

20 There are just more contingencies here. We haven't acquired all the land. The design is
21 not complete. You're working with private partners. You're working with the State. It's
22 not possible to have the same certainty. Gaithersburg, we own the site. We're building
23 on the existing site. We know how big it's going to be now. That's just been resolved. So
24 it's in a different place.

25
26 Councilmember Elrich,

27 It sounds like they're going to resolve the land issue very shortly.

28
29 Councilmember Leventhal,

30 They're working to resolve it.

31
32 Hamid Omidvar,

33 We know the size of the library. We have a program for it. It is a program requirement.

34
35 Councilmember Leventhal,

36 Right, but you're working with private partners as well. You're talking about a mix-use
37 project. Not everything has been wrapped up.

38
39 Hamid Omidvar,

40 But not mixing with the library. The construction of the library and design of it can
41 proceed without other things on the site. That's the intent.

42
43 Councilmember Elrich,

44 So if that's the case -- .



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1
2 Hamid Omidvar,
3 That's the intent.

4
5 Councilmember Elrich,
6 Could it get forward without the Purple Line being built at this moment? Do they have to
7 go at the same time?

8
9 Hamid Omidvar,
10 Yes.

11
12 Councilmember Elrich,
13 So you could design this, build this, and the Purple Line could still happen; which means
14 in three years there could be a library standing there? Assuming you complete the land
15 acquisition.

16
17 Hamid Omidvar,
18 Correct.

19
20 Councilmember Elrich,
21 In three years now the library could be standing there.

22
23 Hamid Omidvar,
24 [Inaudible] the Purple Line is that [inaudible].

25
26 Councilmember Ervin,
27 Even the State says that, Marc.

28
29 Councilmember Elrich,
30 Yeah.

31
32 Councilmember Ervin,
33 I just met with the folks from the State two weeks ago, and their assumption is that the
34 library will go ahead; that the County will go ahead with its plans to build the library. And
35 the way they're planning is around that process.

36
37 Councilmember Elrich,
38 Then I'd either like to say we put the money in, if it really can be done in three years, or
39 at least we leave it open so if they complete the land acquisition in the next month, then
40 we know we're going to put it back in. Because otherwise this is going to be orphaned
41 out there again.

42
43 President Knapp,
44 Councilmember Floreen.



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Councilmember Floreen,

Well, as I recall, there was also an issue here with respect to the Housing Initiative Fund monies, and a coordinated housing project. Where does that stand?

Hamid Omidvar,

At this point there's no plan for the housing development. But what we're trying to do is not build on the location of the property that was purchased for that purpose, and leave that for, let's call it, phase two, which is other development on those seven lots that County tries to put together. So the library is going to be on the site of its own, but it's going to respect the future development of both the Purple Line and other development, including the housing close to the Bonifant.

Councilmember Floreen,

So the current thinking is that it will not be -- it won't be a mixed project?

Hamid Omidvar,

If you look at the site as one site, it would be a mixed project.

Councilmember Floreen,

I'm having trouble visualizing.

Hamid Omidvar,

But it's not -- building-wise, it's not a mixed building. You don't see a building that all the functions are included in it. But the development, the site will look like a campus that on it when it's all done by [inaudible] it would have the Purple Line, it would probably have residential and some other development, and a single library. And the current plan is [inaudible] desired by the libraries to connect it even to the garage for better access of the citizens. That's the plan as of today.

Councilmember Floreen,

As of today.

Hamid Omidvar,

I mean, we have not drawn it. We have not -- I come from the technical side so, the design is not done until it's done. So the planning is in place.

Councilmember Floreen,

And you're condemning the other property?

Hamid Omidvar,

One property, yes.

Councilmember Floreen,



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1 A quick-take kind of thing or condemnation?

2
3 Diane Schwartz-Jones,

4 No, we actually -- you can't do quick-take for property that has improvements on it. I'm
5 sorry.

6
7 Councilmember Floreen,

8 I don't mean to -- you clearly have our disease.

9
10 Diane Schwartz-Jones,

11 But you can't -- but it is in condemnation. We have asked the property owners to treat
12 this contractually as an advanced take [inaudible].

13
14 Councilmember Floreen,

15 Okay.

16
17 Diane Schwartz-Jones,

18 But they have rejected that request.

19
20 Councilmember Floreen,

21 So you're on the slow track.

22
23 Diane Schwartz-Jones,

24 Well condemnation should be able to be completed within one year from the filing of
25 condemnation. And the condemnation of this was filed, I believe, in either early March
26 or late February.

27
28 Councilmember Floreen,

29 Recently.

30
31 Diane Schwartz-Jones,

32 Yes.

33
34 Councilmember Floreen,

35 So, I mean, really is there any way on this earth that you could -- you haven't even
36 designed this?

37
38 Hamid Omidvar,

39 We have not started the design, correct.

40
41 Councilmember Floreen,

42 And so what -- do you even think you could put a shovel in the ground in Fiscal '10?

43
44 Hamid Omidvar,



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1 I can't tell you that. At some time in Fiscal Year '10, yes. Yes.

2
3 Councilmember Floreen,
4 Some time.

5
6 Hamid Omidvar,
7 Right, because it's two years. We're talking about six months in '08 now, 12 months in
8 '09, and 12 months in '10. So technically, yes, it can -- it would start if everything goes
9 smooth. It can start in '10, because you have two years from now.

10
11 Councilmember Floreen,
12 So at the tip of the end of that.

13
14 Hamid Omidvar,
15 Yes.

16
17 Councilmember Floreen,
18 Okay, well. It strikes me as still a rather academic issue at this point given all your
19 uncertainties. So to have construction money in '09, or much at all in '10, seems to be
20 [inaudible] not particularly useful. Certainly you don't need it in '09. And so the PDF
21 should be amended to correct that. Do you have enough planning and design money in
22 '09? I can't tell what -- well, I can't tell what the -- well I'm looking at the -- it's nothing
23 like six months.

24
25 Essie McGuire,
26 I'm sorry, Council staff provided a revised PDF based on the committee's original
27 recommendation for design.

28
29 Councilmember Floreen,
30 Circle 10?

31
32 Essie McGuire,
33 On circle 10 and so there we show -- .

34
35 Councilmember Floreen,
36 Yeah, but that's not much.

37
38 Essie McGuire,
39 No, it would show an increase in '09 and '10 for design to bring those up to 2.1 million
40 across the two years, consistent with the committee's recommendation to leave the
41 expenditure totals alone, I just took that out of construction and moved it up. But we
42 could obviously adjust the other totals depending upon what total the Council wants to
43 program. I would just like to clarify that regarding the issue of, you know, programming a
44 full cost, I haven't seen a full cost or an estimate of a ballpark -- .



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Councilmember Floreen,
Or any clue.

Essie McGuire,
In the manner that we have with Gaithersburg, so I would need more information from
the Executive about that.

Councilmember Floreen,
Yeah, I think it's unwise to program construction money at this stage beyond modicum
given the uncertainties.

Diane Schwartz-Jones,
I wanted just to be clear on the timing for construction though. Can you hear me?

Councilmember Floreen,
Yeah.

Diane Schwartz-Jones,
Okay. That the design can be going while the property is in condemnation.

Councilmember Floreen,
Sure. Yeah.

Diane Schwartz-Jones,
Because we will get the property. And so I don't think that to say there would be the tail
end -- unless we're talking about a two-year design process -- .

Councilmember Floreen,
Well that's what I think I heard.

Diane Schwartz-Jones,
I didn't hear him say that.

Hamid Omidvar,
No, no, I said that construction can start in Fiscal Year 10.

Councilmember Floreen,
Right. Assuming -- right, with a lot of assumptions.

Hamid Omidvar,
No, the construction can start in Fiscal Year 10. We isolated the library from what the
development to make it more certain.



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1 Councilmember Floreen,

2 Well, it's 12 months in '10 is my point. It sounded to me like it's not going to occur in the
3 beginning of Fiscal '10 given the fact you have -- really don't know when it's going to be.

4
5 Hamid Omidvar,

6 What I said was that if we start the design in '08, which we can, and continue in '09, the
7 design will be finished in '09. Then after that we go to permitting and procurement of the
8 contract for construction. So sometime in '10; I did not say the beginning or the end, but
9 definitely the question was can we start the construction in '10. The answer is yes.

10
11 President Knapp,

12 Before I get to Councilmember Ervin, I just wanted to at some point -- you and I have
13 had this conversation -- is to get a sense of your -- especially as we do the
14 reorganization -- your staff's capacity, the number of projects that you actually have in
15 design, and the ability to kind of move all of those. I just -- from a broader perspective,
16 because there's a lot of stuff out there.

17
18 Hamid Omidvar,

19 Yes, this is programmed.

20
21 President Knapp,

22 And they all funnel through you, and I'm always intrigued as to how many hours you
23 must be spending, or how many -- or how slow things -- where are the weight-limiting
24 steps. I would just like to get a sense of how many projects we have, and how many
25 people we've got doing those projects just to see how they flow through, especially as
26 we look at the whole re-org piece and see what that does or doesn't do to that.

27 Councilmember Ervin?

28
29 Councilmember Ervin,

30 Ervin, thank you. I just wanted to go back to Diane Schwartz-Jones for a second. Yes,
31 there are lots of pieces here, but I have a lot of confidence in the direction that this
32 project is moving in. If you drive onto Bonifant today, right now, you see a big open
33 space where a building was just removed. And once you are underway with doing
34 whatever you need to do to take those properties, you can see for those of us who live
35 in that area of Silver Spring, and I know that George and Marc live very close by. Our
36 constituents have been also waiting a very long time for a library like the ones we see in
37 other parts of the County. And so I have complete confidence in the fact that this is
38 moving in the right direction. And you can just see it happening in real time. So I hear
39 Councilmember Floreen's concern about where -- when and where this construction is
40 going to take place, but, you know, I think we're moving in that direction. When you talk
41 to the people from the State, again, the situation with the Purple Line is also moving
42 forward, but it's not contingent upon whether or not the library moves along at the same
43 pace. So I'm just really curious about which those -- what properties are you talking



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1 about? Are they on the -- more toward the corner of Bonifant and Fenton, or are they on
2 the other end?

3
4 Diane Schwartz-Jones,
5 The three?

6
7 Councilmember Ervin,
8 Yeah.

9
10 Diane Schwartz-Jones,
11 I can't tell you exactly where they are without having a site map in front of me. Gary
12 would actually be the one to point those out. We have two of the three under contact.
13 Under contract is under our control. The third is in condemnation. There are only two
14 issues in condemnation -- public use and the fair market value just compensation. So
15 public use is not an issue here; it's just what is the just compensations. So I would view
16 these properties as from a practical standpoint within our control. Now, the design as to
17 the Purple Line, that is just a design question. We have done this with other far more
18 complicated projects, such as the transit center -- the Silver Spring Transit Center. We
19 worked with MTA and the State and we designed around perspective alignments. And
20 that was not just one alignment; we were looking at what probably three or four different
21 perspective alignments. And we designed around it in order to accommodate and allow
22 the State the greatest flexibility. This can -- has been going on and will have been with
23 respect to the library site. So we have reached the determination that the Purple Line is
24 not an impediment. It is simply a design issue, which will be accounted for in the design
25 of the library. I don't know if that answers your question.

26
27 Councilmember Ervin,
28 Oh, it does, it's very -- that's helpful.

29
30 Diane Schwartz-Jones,
31 I can get you more specifics if you'd like.

32
33 Councilmember Ervin,
34 Okay.

35
36 President Knapp,
37 I would -- I just want to make one observation. And I appreciate the efforts that all of our
38 committees have undertaken to try and go back and make all of these pieces fit. We
39 had a conversation this morning with the County Executive in which the speech was all
40 about, you know, fiscal conservatism, how we need to be very careful, and, you know,
41 that the tax-funded portion of the Operating Budget that he's proposed by 1.8%, which
42 does through some accounting mechanisms, that the CIP that was sent over for county
43 government grew by only 2%. And yet we're sitting here. We've not taken the better part
44 of an hour to address issues that were not addressed in the CIP that was submitted by



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1 the Executive in January that are issues that needed to be addressed. So we're going to
2 go back and try to figure out how to put these programs in, which are merited and
3 necessary for our communities, in addition to other things, like the North County
4 Maintenance Depot, that was not provided to be funded in the Executive's CIP. In
5 addition, some time this week we're also going to get CIP amendments, interestingly,
6 for other programs that weren't included in January when the Executive put his CIP
7 recommendations together. And so I guess I'm just -- I appreciate our efforts. We will
8 have a significant discussion next Tuesday as to how to make all of these pieces fit.
9 Part of it is our doing because we want -- we have some different competing priorities
10 and competing philosophies, which I think is fair and legitimate. And I think we'll work
11 through as a Council. But I think a lot of the issue of what we're trying to deal with right
12 now are issues that quite frankly should have been addressed before this ever got to us.
13 And I'm just a little frustrated at that, but I appreciate the efforts of the Chair the efforts
14 of the committee members, and the District Councilmembers to address these important
15 issues to our community. I just think it's interesting that we're hearing how we need to
16 be very conserved in our approach, and yet many of the big issues that need to be
17 decided just weren't. Which I think is a little shortsighted. Anyway, just an observation
18 as we've worked our way through this, this morning.

19
20 Councilmember Leventhal,

21 I have to suspect, and I was also present at the breakfast this morning, that the lack of
22 deciding is as intentional as anything else.

23
24 President Knapp,
25 I'm sure.

26
27 Councilmember Leventhal,

28 I mean, if you don't decide, you don't have to spend money. So I don't think there was
29 any intent to expedite these projects. I think the intent was to take our sweet time and
30 take a good long time to decide. That's somewhat characteristic.

31
32 President Knapp,
33 Anyway, Councilmember Berliner.

34
35 Councilmember Berliner,

36 As Ms. Hamilton knows, I am a proponent in appropriate places of collocating affordable
37 housing with libraries, so my question is that at this point in time your intention is to not
38 do that, as I appreciated it, and to look at a "phase two" development as a possibility. I
39 guess my question to you is why not use the library? I don't know how many stories the
40 library is going to be; but why wouldn't you consider collocating affordable housing with
41 the library structure itself so that we're not waiting until a phase two, which may or may
42 not develop; we don't know how that will play out. But is there any institutional
43 resistance to collocating affordable housing with the library in the facility that you are
44 going to be designing?



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Parker Hamilton,

What we want to do is build a new library in Silver Spring for the residents of Silver Spring. And the simplest way, if that's the right word, to do this is to build a standalone library. The library that is currently serving that community is the oldest and the smallest library in Montgomery County. And the community has been waiting for probably more than 25 years or more for a new library. And we thought that the way to achieve that would be to move ahead and build the library with [inaudible] for other additions along the way, and also take into consideration the Purple Line. There is no resistance to multi-use facilities. We were doing that, but we want to build a library.

Councilmember Berliner,

And I guess my question is how many stories is that library going to be? And recognizing that that community deserves a library and that it's waited a long time for a library, I still don't understand why we couldn't design a building that achieves that purpose and achieves the other public purposes that we seek to achieve in this County, which includes affordable housing. So my -- my -- when I think of this -- how many stories is this facility going to be, probably as a standalone library?

Hamid Omidvar,

The library is going to be physically two stories because we have to lift it off the ground for physical aspect of this site. But this is not negating your wish. I mean, it could -- the fact that the library sits on -- .

Councilmember Berliner,

[Inaudible] two story.

Hamid Omidvar,

And you could develop it many ways. And the library being a standalone next to other complex or be part of it, neither one of them would -- has a negative impact. It would respect the housing. The housing doesn't need to be necessarily on top of the library to achieve the goals that you're expressing. These are various ways of urban designing and infilling buildings into the community. And it can be done either way. The question is which way is expeditious; which way is affordable; and can be done in phases rather than a big stone that cannot be lifted off the ground for a long, long time. We thought this is more approachable, more doable and feasible, while respecting all the other scenarios that was expressed.

Diane Schwartz-Jones,

I want to jump in.

Councilmember Berliner,

Absolutely. If you want to.



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1 Diane Schwartz-Jones,
2 If you don't mind.

3
4 Councilmember Berliner,
5 You obviously feel you need to so then.

6
7 Diane Schwartz-Jones,
8 Just to point out in order to do this in an expeditious way, to do joint development it's a
9 great thing to do; it is a very time-consuming process, and it adds years to a project,
10 because there are a lot of complexities in order to make it happen. Doing it this way
11 we're able to respect the ability to provide the housing onsite without necessarily
12 providing it on top of the garage -- excuse me, the library. The time element in order to
13 do it as a joint development project would require that we actually have control of the
14 properties and more than control. Actually we're owning the properties that we are then
15 doing a request or a solicitation for proposals. And then the time that it takes to
16 negotiate the complexities that go along with a joint development project. And there are
17 complexities because you're -- even in the design itself, you're allocating elements of
18 the project to public versus private becomes much more complicated. It also becomes
19 much more complicated vis-à-vis Park and Planning. So by taking this approach, it
20 enables us to accomplish multiple objectives, including attaining a library on the site
21 within the timeframe that we're looking to do it. That's all I wanted to say.

22
23 Councilmember Berliner,
24 And I do appreciate the added complexity that would arise, and I don't desire to delay
25 this project that is so urgently needed for this community. On the other hand, I also
26 assumed, and I could be wrong, that a joint development of a library and affordable
27 housing could perhaps provide a means by which the County's fiscal obligations would
28 be reduced. So instead of talking about a 23 million, or in this instance, I believe, we're
29 talking about a facility that's going to cost considerably more than that, as I recall in our
30 conversations. The numbers that we've been talking about in terms of what is real with
31 respect to this project, I thought approached something on the order of \$40 million. So
32 the notion that we are going to be expending \$40 million on this library and not exploring
33 the possibility of having a joint development which could accrue to the benefit of
34 developers, affordable housing and to our own financial situation by reducing the cost of
35 the library.

36
37 Diane Schwartz-Jones,
38 I agree.

39
40 Councilmember Berliner,
41 Seemed to me to be something that is important factor.

42
43 Diane Schwartz-Jones,



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1 I understand what you're saying. The affordable housing piece of it is not the part that
2 truly would go to offsetting the cost of the library. The land acquisition that would be the
3 market rate piece of it that would go to offsetting that.

4
5 Councilmember Berliner,
6 Understood that this would have to be a market rate affordable housing workforce
7 housing combination, but it does provide us a unique site and a site that is close to
8 mass transportation, and a site that we own or about to acquire. The notion of just
9 having two stories on this particular site when we could reduce the cost, when we could
10 achieve these other public policy objectives seems to me to be something that needs to
11 be seriously looked at.

12
13 Diane Schwartz-Jones,
14 I hear you and I'm not arguing with you at all about this. I do think that as we move
15 forward that we have to be very [inaudible] appear to be keeping an eye towards how to
16 maximize the ability to use the density in conjunction with an overall site development.

17
18 Councilmember Berliner,
19 And I appreciate that there is -- phase two of this is going to include lots of different
20 elements that I presume will be part of that. But I was hoping that this standalone facility
21 that we're moving forward with would not in fact be a standalone facility, it would be a
22 facility in conjunction with affordable housing, work force housing and market-rate
23 housing, and using, if you will, a ten-story -- I don't know that particular corner well
24 enough to say if ten-stories works. But it seemed to me that if you did something of that
25 -- .

26
27 Councilmember Ervin,
28 Not there.

29
30 Councilmember Berliner,
31 Not there. Okay. So give me a -- okay. Another conversation -- not ten stories. But at
32 any rate, I've said what I wanted to say.

33
34 Councilmember Leventhal,
35 Well let, Mr. President, just to try and bring this to some conclusion, Mr. President.
36 There's been interest expressed from Councilmembers in doing here what we did in
37 Gaithersburg; that is taking the fairly rough estimate, which we find on page 8 of \$25
38 million, and programming that in FY10. That, as with Gaithersburg, makes your problem
39 substantially worse, as you're going to be trying to make this whole CIP mesh together.
40 And you're going to be consulting with us in the next few days. But if that's the sense of
41 the Council, why don't we just put that forward and see if that's people want to vote for.

42
43 Councilmember Elrich,
44 I [inaudible].



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Councilmember Leventhal,
Yeah.

Councilmember Elrich,
We can do the planning in '09.

Councilmember Leventhal,
Right.

Councilmember Elrich,
And if he thinks he can get the spade in the ground sometime in '10, maybe put 8 or 10 in '10.

Councilmember Leventhal,
Sure, break it up.

Councilmember Elrich,
And 15 in [inaudible] 20. It sounds to me if you're really talking about \$40 million.

Councilmember Leventhal,
Right.

Councilmember Elrich,
This thing ought to reflect close to what it really is going to be.

Essie McGuire,
I would say to clarify that, the \$25 million that you're referencing here, Mr. Leventhal, actually is the approved total estimate including land and all the other costs. We don't have a current project construction estimate as Mr. Berliner mentioned in some of the discussions, the numbers were floated between 30 and 40 million. As we've discussed, they are related to a variety of site issues. So that \$25 million we could program in that, but that's still a low estimate. That's not -- .

Councilmember Leventhal,
Mr. Elrich, you were saying 8 and 17 break up -- .

Councilmember Elrich,
[Inaudible] that might be 10 and 20, which gets us to 30, and maybe we get lucky and we do it for 30. You're talking about a 42,000 square foot library. Just doing -- .

President Knapp,
Hit your microphone.



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1 Councilmember Elrich,

2 At a 42,000 square foot library I'm sure if we press our friends here and say give me a
3 per square foot cost, he would give you a per square foot cost that would -- that's going
4 to come close to 35 or 40; right?

5
6 Councilmember Leventhal,

7 Well I don't understand why it would be so substantially different from what we just
8 heard cited where the figures from Rockville and Germantown. I know it's a few years
9 later but it's not that much different. You said we brought in both Rockville and
10 Germantown libraries for under 20 million.

11
12 Hamid Omidvar,

13 It would be somewhat different because it's an out year from now, so there would be
14 some new escalations added to it, while there's already an incurred escalation on it.

15
16 Councilmember Elrich,

17 A hundred percent escalation. We're talking about going from 20 to 40.

18
19 Hamid Omidvar,

20 No, there are costs [inaudible].

21
22 Councilmember Leventhal,

23 We've had almost 15% a year for that in the last two years.

24
25 President Knapp,

26 Hold on.

27
28 Hamid Omidvar,

29 There are costs of properties included in this PDF; however, very short we will come up
30 with the estimates that you're looking for. I can't present it now, but I know -- .

31
32 Councilmember Leventhal,

33 Well, I mean, okay. I mean, you're superb. You're the best around at your job, but I've
34 got to share the Council President's frustration here. I mean, we're taking up the CIP
35 now. And it is a little mysterious why the department wasn't on firmer ground with these
36 CIP items, unless it was just the intent to delay, delay, delay, and not really build them.

37
38 Hamid Omidvar,

39 These information are coming to the surface and decisions are being made. We are in
40 the work as we're speaking. So it's nothing that we have that we are withholding from
41 the Council, it's just that we are in the work.

42
43 Councilmember Leventhal,

44 Okay.



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1
2 Hamid Omidvar,
3 And these numbers are being produced as we speak.

4
5 Councilmember Leventhal,
6 Well, once again, we need to reach a conclusion here this morning.

7
8 Councilmember Elrich,
9 Use 10 and 20.

10
11 Councilmember Leventhal,
12 10 in FY10 and 20 in FY11, subject to further shaving and further modification.

13
14 Councilmember Elrich,
15 Yeah.

16
17 President Knapp,
18 Well, yeah. I mean if you want to put that -- .

19
20 Councilmember Floreen,
21 [Inaudible].

22
23 Councilmember Elrich,
24 Eleventh always gets [inaudible].

25
26 President Knapp,
27 I mean, I guess we can put them in for now but it's, you know, we're kind of making
28 numbers up again.

29
30 Councilmember Elrich,
31 But there's no number worse made up than a zero or five. I mean we know that it's not
32 going to be \$10 million. We're pretty sure it's not going to be \$25 million.

33
34 President Knapp,
35 But we don't know any of the other issues that are coming upon the site either.

36
37 Councilmember Elrich,
38 But they've just said that they can be in the ground in '10.

39
40 President Knapp,
41 Well with all due respect, over the last five years I've heard that statement made a
42 number of times on a number of different items.

43
44 Councilmember Elrich,



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1 And I share your frustration over that.

2
3 Councilmember Leventhal,
4 [Inaudible] Germantown Library.

5
6 President Knapp,
7 I know there were lots of issues and there were lots of compelling circumstances for
8 those issues. Anyway, so what do we have before us? A proposal to -- .

9
10 Councilmember Leventhal,
11 So the committee recommended 1.775 million for planning and design in FY09. What
12 Mr. Elrich is suggesting is \$10 million for construction in FY10 and \$20 million in FY11
13 for construction.

14
15 Essie McGuire,
16 And Council staff would just break that out in the categories, and to clarify the 1.775 is
17 the appropriation for FY09, the design is slightly lower in '09 and higher in '10. We can
18 work those numbers out.

19
20 President Knapp,
21 Okay.

22
23 Councilmember Floreen,
24 And you'd remove the construction money from '09.

25
26 Councilmember Elrich,
27 Right.

28
29 Essie McGuire,
30 Yes.

31
32 President Knapp,
33 Okay. I don't see any disagreements. Okay. Wheaton Library renovation.

34
35 Councilmember Leventhal,
36 That would be the last item for this morning.

37
38 President Knapp,
39 Right. Can we do that in five minutes?

40
41 Councilmember Leventhal,
42 I'm going to -- well, Essie, why don't you tell us what we know and what we don't know.
43 And then Parker can comment.



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1 Essie McGuire,

2 In the Wheaton Library renovation the issue here, again, is one of potential scope and
3 site changes. The committee's recommendation was to approve planning and design
4 funds only in the expenditure schedule as a placeholder, again, for a possible library
5 project, but not to recommend any appropriation. Since that discussion the Executive
6 did issue a press release that relates the initial recommendations of the advisory panel
7 that's studying the Wheaton CBD revitalization plan and their initial recommendations
8 were in fact to move the library to the CBD and redo that project. In light of that I think
9 that that certainly supports the committee's approach to not move forward with this
10 project at this time. The appropriation had requested design dollars; however, clearly, if
11 the project scope is going to change that significantly design would not necessarily be
12 appropriated at this time. One more caveat, of course, this is a very initial
13 recommendation from this group. It still needs to go through the full process with the
14 Executive, who then needs to make a decision. However, given that that's likely to be
15 some time away, Council staff would recommend that we continue to just wait on this
16 library.

17
18 Councilmember Leventhal,

19 So what I'm going to suggest, and I know Parker is going to want to comment on the
20 condition of the current Wheaton Library. But we have nothing here.

21
22 President Knapp,
23 Right.

24
25 Councilmember Leventhal,

26 We don't have a site. We've got the Wheaton Revitalization Committee suggesting that
27 it move, which does make a great deal of sense in terms of the vision -- the future vision
28 of downtown Wheaton. And I'm going to suggest that we do what we just did in
29 Clarksburg. I mean, you know, we love the Wheaton community; we understand there's
30 a need for a new library. My suggestion was we just take out the Clarksburg PDF if we
31 want to put in some token amount for planning and design in FY14, but this is years
32 away. We don't know what's happening here. I understand that the current Wheaton
33 Library is woefully inadequate, but they don't have any estimate, unless Parker is going
34 to correct me on this, for what renovations would cost. So we can't program that money
35 either. And it wouldn't make a lot of sense. And I'm not much inclined to vote for
36 simultaneously renovating the existing library -- .

37
38 President Knapp,
39 While building a new one.

40
41 Councilmember Leventhal,

42 And then building a new one within, you know, the same decade. That doesn't make a
43 lot of sense. So we don't know what we're doing here.



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1 President Knapp,
2 So is the recommendation -- .

3
4 Councilmember Leventhal,
5 Parker, did you want to comment?

6
7 Parker Hamilton,
8 You're correct. We are looking at opportunity, yes. And it puts us in a strange situation.
9 But as you do know that if the opportunity presents itself and a decision is made to
10 move the library from its current site to a new site that will take some time. The current
11 library is in need -- and I don't want to use the word renovation, but it is in need of some
12 fixing up. And so what we would have to do is get Public Works and Transportation to
13 go into that library and identify safety and security issues that we would have to address
14 that -- .

15
16 Councilmember Leventhal,
17 It does need to be addressed in the next years?

18
19 Parker Hamilton,
20 We believe some of it might be. We'll have to get that information for you. I mean, it is
21 ready for renovation, so there are HVAC issues, you know.

22
23 Councilmember Leventhal,
24 So would that be a whole capital project, or would it be maintenance in the Operating
25 Budget?

26
27 Parker Hamilton,
28 I don't think it would be a capital project.

29
30 Hamid Omidvar,
31 I'm not sure. The program as -- PDF as was approved was to renovate the current
32 facility.

33
34 Councilmember Leventhal,
35 Thanks. I'm going to suggest that we delete this PDF. Just delete it. Just delete it. We
36 don't know anything here. We don't know what we're doing.

37
38 President Knapp,
39 Any -- .

40
41 Councilmember Floreen,
42 Yes.

43
44 Councilmember Ervin,



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1 Yes.

2
3 President Knapp,

4 Okay. There we go. We made a decision. It's 12:30. The Council is due back here for
5 public hearing at 1:30. All right, one final comment. On this issue?

6
7 Councilmember Floreen,

8 No, well, just generally. I think the -- my compliments to the committee on this. Because
9 this is about the worst CIP -- .

10
11 President Knapp,

12 Yep.

13
14 Councilmember Floreen,

15 Exercise we've had to go through so far. I can only -- the series of mixed signals that
16 this is sending; we mean to do it but not really. We don't allocate the funds for
17 construction. You know, this is not an academic exercise to us who are trying to
18 exercise some fiscal care and responsibility here. And I think it sends really the wrong
19 message about the kind of work that's been done in planning here. The whole point, we
20 only do this every two years. And this is should have been -- the groundwork for this
21 should have been laid long before now. We are going into totally uncharted territory with
22 respect to this particular Capital Budget, and I am really worried about this -- what it
23 says about the rest of the Capital Budget. Is it real or not? Puts us in a terrible bind as to
24 what we fund and what we don't fund, and under what circumstances. And we can put
25 money in; we can't force the decisions to be made. We can't force the action. So we
26 don't implement. But setting policy here is increasingly difficult if we don't have good
27 information. And I haven't seen that here in -- as I said, my compliments to the
28 committee for struggling through this.

29
30 Councilmember Leventhal,

31 As I said earlier, Ms. Floreen, if you don't make decisions then you don't have to spend
32 money.

33
34 Councilmember Floreen,

35 Indeed.

36
37 President Knapp,

38 Councilmember Elrich, last comment before lunch.

39
40 Councilmember Elrich,

41 Yeah, I can't resist. I agree with a lot of what Mike and Nancy have said about this, and
42 George, your comment about it as well. But I think we needed to find a different venue
43 somehow for this conversation, because I think the reality is that the capital needs of the
44 County, as are now apparent, far outstretch our ability to meet them in funding \$300



million a year. And rather than an exercise from the Executive, where he brings over one list and us trying to fit everything into \$300 million; I think a broader discussion about what are our priorities? What can we realistically do? Every committee, I think, has worked hard. Your committee did a lot of work to get this. But each of us has kind of worked in isolation trying to figure out what are the real community priorities, and what do we really mean to do. And then we put this altogether, and we haven't been trimming to stay within 300; we've been looking at each individual area and saying what do we really need. And now we're going to have this grand discussion when we've identified 200 or 300 million more than what's in here that we really. And we're going to have to set priorities. But I think a discussion among all of us prior to the submission of my numbers versus your numbers would have been helpful in trying to get to an understanding of where we should have, you know, where we do think our priorities are. And I think getting numbers for everything would have been helpful. It's very frustrating to be putting numbers in now.

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**TRANSCRIPT
April 1, 2008**

MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Michael Knapp, President
Councilmember Roger Berliner
Councilmember Valerie Ervin
Councilmember George Leventhal

Councilmember Phil Andrews, Vice-President
Councilmember Marc Elrich
Councilmember Nancy Floreen
Councilmember Duchy Trachtenberg



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1 Council President Knapp,

2 Good afternoon everyone. This is a public hearing on Zoning Text Amendment 08-02,
3 which would amend the Zoning Ordinance to allow a Landscape Contractor's permitted
4 use in the Commercial Transitional CT Zone at a if a site adjoins a railroad right of way
5 and a property recommended for commercial, industrial, or public use. Persons wishing
6 to submit additional comments should do so by the close of business on April 11th,
7 2008, so that your views can be included in the material which staff will prepare for
8 Council consideration. The PHED Committee worksession will be scheduled at a later
9 date. Please call (240) 777-7900 to check the Committee schedule. Before beginning
10 your presentation please state your name and address clearly for the record and spell
11 any unusual names. Someplace in here is going to be a list that tells me all the people
12 we have. We have one speaker. Greg Russ representing the Montgomery County
13 Planning Board.

14
15 Greg Russ,

16 Thank you, Mr. President. As you just mentioned, Greg Russ from the Montgomery
17 County Planning Board. The Montgomery County Planning Board reviewed Zoning Text
18 Amendment 08-02 at its regular meeting on March 20th. The Board unanimously
19 recommended approval of the ZTA. This is a narrow amendment that will extend the
20 opportunity for Landscape Contractors to operate in the CT Zone with minimal potential
21 for impact on residential development. There are 99 CT Zone sites in the County.
22 Approximately 13 of these sites either adjoin or are in close proximity to a railroad right
23 of way and eligible for Landscape Contractor use. The Board supports approval of the
24 ZTA as introduced. The Board also was asked at the hearing to recommend that the CT
25 Zone provisions for a Landscape Contractor be extended to include sites zoned C2.
26 Although some provision for Landscape Contractors to operate in the C2 Zone seems
27 reasonable, the Board was not inclined to support the request at this time. The Board
28 would not object to considering the proposal in the context of a separate ZTA but
29 prefers developing standards for key land uses comprehensively rather than addressing
30 new problems and opportunities as they arise. Thank you.

31
32 Council President Knapp,

33 Okay. Thank you very much. Are there any questions? I see none. Thank you. This
34 concludes this public hearing. I will now turn to Agenda item 15. This is a public hearing
35 on a Resolution to approve three Mutual Aid Agreements between the County and the
36 National Naval Medical Center, Walter Reed Army Medical Center and the National
37 Institute of Standards and Technology which would provide for mutual assistance
38 regarding fire fighting and related emergency services. A Public Safety Committee
39 worksession is tentatively scheduled for April 10th, 2008 at 9:00 a.m. Persons wishing
40 to submit additional comments should do so by the close of business on Thursday April
41 3rd, 2008 so that individual views can be included in the material which staff will prepare
42 for Council consideration. Before beginning your presentation, please state your name
43 clearly for the record. We have one speaker, Chief Tom Carr, Fire Chief representing
44 the County Executive.



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Tom Carr,

Good afternoon. I am Montgomery County Fire Chief Tom Carr. Today I am presenting three Mutual Aid Agreements between Montgomery County, Maryland, and the, I'm sorry, Naval National Medical Center, Walter Reed Army Medical Center, and the National Institute of Standards and Technology. These Mutual Aid Agreements encourage the County and the respective federal agency to engage in pre-event planning, inspections, drills, and training exercises. The providing of assistance is discretionary. In the event of a major fire disaster these Mutual Aid Agreements set forth the standards and criteria for the County and the respective federal agency to be reimbursed for providing firefighting and emergency medical services. FEMA Policy 9523.6 encourages local governments and federal agencies to enter into limited, I'm sorry, into pre-event Mutual Aid Agreements. A pre-event Mutual Aid Agreement allows Montgomery County to receive reimbursement directly from the federal agency for firefighting and emergency medical costs exceeding those normally incurred by the County. The eligibility costs include overtime pay, transportation costs for personnel and equipment, dispatch operations, and equipment use. The Montgomery County Fire Rescue Service benefits from these Mutual Aid Agreements. These federal agencies will provide additional equipment and personnel to augment our current operational staff and apparatus. These federal agencies will provide MCFRS access to the following additional equipment, Navy National Medical Center, engine 750, Walter Reed Army Medical Center, engine 754 and Hazmat 754, National Institutes of Standards and Technology, engine 753, ambulance 753, brush 753 and Hazmat 753. Maryland state law authorizes the County to enter into Mutual Aid Agreements and it is my opinion that these Mutual Aid Agreements are sound, desirable, practical and beneficial to Montgomery County, Maryland. Accordingly, I am requesting that you support and approve this pending resolution.

Council President Knapp,

Thank you very much. I just had a question for either the Chief or for staff when we get to this in Public Safety. We at Council of governments did a region-wide Mutual Aid approach for the local jurisdictions. Given the various federal installations that exist, do we have, do individual jurisdictions have to have a separate MOU, Mutual Aid Agreement between that jurisdiction and each federal installation, or is there a more comprehensive way for us to approach it, or is this unique because of the specific arrangement we've struck with these institutions between us and Montgomery County? Press the button.

Bernadette Lamson,
The left or the right?

Council President Knapp,
Whichever one goes down.



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1 Bernadette Lamson,
2 My understanding with the COG Mutual Aid Agreement is that it allowed interstate
3 Mutual Aid Agreements, and these three Mutual Aid Agreements that are authorized
4 under Maryland state law, the Public Safety article specifically addressed those federal
5 entities that are either contiguous to us such as Walter Reed or those federal agencies
6 that are within Montgomery County. And that the COG only concerned the uniqueness
7 of our tri-state area with Maryland, D.C. and Virginia and that was what the COG
8 addressed.

9
10 Council President Knapp,
11 But what if, and this is not a far stretch, to assume that there was an event at another
12 federal facility that we would perhaps respond to or that there was something here that
13 other jurisdictions might respond to in helping us, is there a way for us to begin to
14 explore that type of approach? I mean, what, so.

15
16 Bernadette Lamson,
17 You mean, if we had a catastrophe here and perhaps somebody from Virginia would
18 come into Montgomery County?

19
20 Council President Knapp,
21 Or we were to go to respond to another federal installation in Virginia or in the District.

22
23 Bernadette Lamson,
24 Well, the only difference is is that these three Mutual Aid Agreements allow us to have a
25 direct relationship with those federal agencies that are contiguous or within us and it is a
26 matter of ease of reimbursement of costs, rather than having to go through FEMA, and
27 under the Stafford Act, FEMA would have to declare it a federal emergency or federal
28 disaster and we would have to go through FEMA to be reimbursed. This way we could
29 go directly to those federal agencies with these Mutual Aid Agreements. Am I answering
30 your question?

31
32 Council President Knapp,
33 It is. I just, I guess it still kind of begs the question, because with all the federal
34 installations, it just seems that that's something as a regional, given the issues we will
35 face in this region and have faced previously, and the number of federal installations,
36 the number of jurisdictions that are going to have to respond, it seems that is something
37 we ought to look at and see if there is a more comprehensive Mutual Aid approach that
38 we could take. There may be some specific callouts but we may want to have
39 something that looks more broadly at that, perhaps the Fire Chiefs or other parts of
40 COG could take a look at it.

41
42 Tom Carr,
43 I actually believe that these agreements, by having the agreement with Montgomery
44 County and the Montgomery County federal installations, that covers the other



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1 jurisdictions, when they come in, that allows the reimbursement for them through this
2 agreement. So if Fairfax came in to NIH on a building fire that we were requesting
3 resources to support, I think they would be covered in the same way. I believe that's the
4 way it works.

5
6 Council President Knapp,

7 Okay. --further. Okay. I see no other questions. Thank you very much. This concludes
8 this public hearing. Agenda item 16. This is a public hearing on a Supplemental
9 appropriation to the FY08 Operating Budget, the FFY07, I guess it's Federal Fiscal Year
10 2007 Homeland Security Grant Program in the amount of \$614,769 for the Department
11 of Police and Sheriff's Office. Action is tentatively scheduled for April 8th, 2008. Persons
12 wishing to submit additional comments should do so by the close of business on
13 Wednesday, April 2, 2008 so the individual views can be included in the material which
14 staff will prepare for Council consideration. Before beginning your presentation, please
15 state your name clearly for the record. There are no speakers for this hearing. Council
16 Vice-President Andrews.

17
18 Councilmember Andrews,

19 Thank you President Knapp. The two items, this item and the next item are grants that,
20 appropriations for grants that have been received for Homeland Security purposes that
21 would go to different County departments. I think we have, I think Captain Lanham is
22 here from the Police Department who has been working on Homeland Security issues
23 for the Police Department. And I have a number of questions that I think I'll probably just
24 transfer to you in writing rather than going into them all now, but these are significant
25 grants. The first one that we have right before us at this moment is for \$614,000 and the
26 one that is up next is \$812,000, so the County has been successful in applying for
27 significant federal assistance to advance Homeland Security goals. That is a good thing
28 but we do want to have more detail about some of the particulars of the grants. And
29 since we're not, it's not expected at this point this would go to Committee, since it is a
30 grant, and partly because of the budget items as well, I would like to get answers in
31 writing to the questions that I am going to give you before the Council session next
32 Tuesday when we're scheduled to take this up.

33
34 Council President Knapp,

35 Okay.

36
37 Councilmember Andrews,

38 So, in fact, we'd really need it back by Friday morning at the latest in order to get it in
39 the packets for Councilmembers to have a chance to look at it ahead of time. So, but,
40 let me just say a couple of the issues are, you know, what the process is for determining
41 which items to request for grant funding, how does this fit into what we want to do, or
42 was it something that was available that we have added to what we had as our main
43 priorities and what are the priorities that are established for Homeland Security goals in
44 this year? And then I've got a number of particular questions in each grant that I don't



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1 think I need to go into right here but I hope that you can get answers back to the Council
2 by Thursday afternoon or Friday morning so that Minna Davidson can include it in her
3 packet that will go to us for the weekend, for our weekend reading. All right. Is there
4 anything you would like to comment on while you are here?

5
6 Lieutenant Lanham,

7 Good afternoon. Lieutenant Lanham. I am Montgomery County Police. I am assigned to
8 Homeland Security. Mr. Andrews, I have got copies of the questions and some of the
9 staff from Homeland Security and the various agencies already had these questions so
10 we will have these back to you by the end of the week, the answers then.

11
12 Council President Knapp,
13 Great. Thank you very much.

14
15 Councilmember Andrews,
16 Thank you.

17
18 Council President Knapp,
19 Okay. And then our next public hearing is a public hearing on Supplemental
20 appropriation to the FY08 Operating Budget, for the Federal Fiscal year '07 Homeland
21 Security Grant Program in the amount of \$812,606 for the Department of Homeland
22 Security, Department of Police, and Montgomery County Fire and Rescue Service.
23 Action is tentatively scheduled for April 8, 2008. Persons wishing to submit additional
24 comments should do so by the close of business on Wednesday, April 2nd, 2008 so
25 that individual views can be included in the material which staff will prepare for Council
26 consideration. There are no speakers for this hearing either. This concludes our public
27 hearings for the afternoon. We now turn to, couple minutes behind, we now turn to
28 Council worksession on Amendments to the Ten-Year Comprehensive Water Supply
29 and Sewerage Systems Plan. We should have the Chair of the T&E Committee present
30 to do that. Can you just call down Chris and see.

31
32 Councilmember Leventhal,
33 Keith can probably just walk us through it.

34
35 Keith Levchenko,
36 Yes.

37
38 Council President Knapp,
39 Let's just check real quick. All right. Well, let's go ahead Keith and at least start the
40 process.

41
42 Keith Levchenko,
43 Okay. This is a package of water and sewer planned category change amendments.
44 The Council reviews these at least once or twice a year. What we have before us today



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1 are 12 recommendations from the Executive. They have also been reviewed by the
2 Planning Board. I have noted in the packet the various recommendations at the
3 Executive level, Planning Board staff, Planning Board, and now the Committee. And I
4 have also noted where the differences are. Because there are only 12 and they are all
5 somewhat unique, within the packet we have, I've.

6
7 Councilmember Floreen,
8 Started? Thanks.

9
10 Council President Knapp,
11 I think we're three sentences in.

12
13 Keith Levchenko,
14 Just started. Just started.

15
16 Council President Knapp,
17 Madam Chair. Any opening remarks?

18
19 Councilmember Floreen,
20 Well, this is, the amendments to the water and sewer plan are pretty straightforward. I
21 don't know what Keith has told you. We had a few points of disagreement and there was
22 one piece of new information that the Committee has not taken up. So, I will look to my
23 colleagues on the T&E Committee when we get to that one.

24
25 Keith Levchenko,
26 I also did want to note that we did get a memorandum from the Executive on March 31st
27 with a couple of revised recommendations. I'll mention those as we get into those items.

28
29 Councilmember Floreen,
30 Really?

31
32 Council President Knapp,
33 Yes.

34
35 Councilmember Floreen,
36 Do we have a copy of that?

37
38 Keith Levchenko,
39 We just got it yesterday. I have a copy here and it was put in your boxes yesterday.

40
41 Councilmember Floreen,
42 If you could share one with the Committee Chair, that would be very handy.

43
44 Council President Knapp,



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1 There it is.

2
3 Councilmember Floreen,
4 Thanks.

5
6 Keith Levchenko,
7 And they relate directly to some of the items that the Committee took up. So they are
8 not new items per se.

9
10 Councilmember Floreen,
11 Are those, oh, those are the two.

12
13 Council President Knapp,
14 Right.

15
16 Councilmember Floreen,
17 Okay. Sure. Those are the two that, where we had a little difference. Why don't we just,
18 unless Councilmembers have any particular observations, I'll just, we will just get into it.
19 The first one is Mr. Schrekengost.

20
21 Council President Knapp,
22 Nancy, just before, and Council doesn't take final action on this until next week, so just
23 so people are aware.

24
25 Councilmember Floreen,
26 Right.

27
28 Council President Knapp,
29 This is for consideration, I think we do straw votes and then this is presented on next
30 week's agenda for final action.

31
32 Keith Levchenko,
33 Right. We have a draft resolution and tables in this packet but because we don't want to
34 be drafting resolutions at the table with Council recommendations, we will take whatever
35 straw votes are done today and put together a final resolution for next week and then
36 the Council will formally vote next week.

37
38 Council President Knapp,
39 Right.

40
41 Councilmember Floreen,
42 So, starting out, the first one is Mr. Schrekengost in the Spring Lawn Farm Homeowners
43 Association. This is a sort of an unfortunate story of a family who purchased an out lot
44 that went through a couple of subdivision steps here and he was hoping to be able to



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1 re-subdivide again as I recall, to be able to take advantage of a, let's see, this is sewer
2 right, sewer line by his property. The challenge with this particular one is that if this one
3 were allowed to proceed, it would really throw the question of out lots in the subdivision
4 process into some serious debate. Mr. Schrekengost really feels, I know we got a letter
5 from him, a memo, I am not sure if the full Council has seen it, expressing some really
6 regrettable unhappiness with the way that this has been handled. He feels that he
7 should have been told at the outset, there he is, that his chances of success were slim
8 to none on this one. And I will say that this Committee was somewhat sympathetic to
9 Mr. Schrekengost, but our recommendation is to not allow additional sewer service to
10 this property. So we concur with all of the players on this one, County Executive and
11 Planning Board.

12
13 Councilmember Leventhal,

14 I just have a question here. I am looking at Mr. Schrekengost's letter, circle 102, and
15 103 and I am trying to just understand this process. He talks about the \$20,000 that he
16 spent, not all of that \$20,000 was fees to the County, he is complaining about the
17 County financially benefiting via review fees, but the \$20,000 included the architectural
18 and engineering work and the rest of it that he had done. Is that right?

19
20 Alan Soukup,
21 Yes.

22
23 Councilmember Leventhal,
24 The review fees were paid to who? To DPS?

25
26 Councilmember Floreen,
27 Park and Planning.

28
29 Alan Soukup,
30 My guess would be, and I don't know specifically, but there was, the applicant
31 proceeded with the preparation of a pre-application subdivision plan with his engineer
32 that was reviewed by the Park and Planning Commission staff down in Silver Spring.
33 Our application fee for this request was \$250. Now, whatever other technical support
34 that the applicant needed to put together or prepare so that we could review his
35 application with his engineer, that certainly would have cost him more. But he was
36 already in a subdivision plan process.

37
38 Councilmember Leventhal,
39 Have you read his letter?

40
41 Alan Soukup,
42 Yes, I have.

43
44 Councilmember Leventhal,



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1 Who, who, would it have been appropriate for someone at Park and Planning to say,
2 Mr. Schrekengost, I have got to warn you, there is no precedent for an application like
3 this being approved?
4

5 Alan Soukup,

6 When Mr. Schrekengost's plan came through the development review process back in I
7 think it was 2006, we raised a concern about his proposal and cautioned that it required
8 some extraordinary measures to make its way through the category change process.
9 What he was proposing, given the restrictions on the property at the time, was not
10 consistent with the water and sewer plan.
11

12 Councilmember Leventhal,
13 And he was informed of that?
14

15 Alan Soukup,

16 We informed his engineer. We always send our comments to Park and Planning staff,
17 the agencies, and to the project engineers for the plans going through. This policy that
18 we were looking at right now, this abutting mains policy for multiple sewer hookups,
19 requires a pretty good amount of technical support. The applicant needs to show that
20 there is a reasonable possibility that they can do what they want to do on the site using
21 septic, that is the underlying assumption. And if they can and if they can show that there
22 is an environmental benefit to using sewer instead of the septic system, then that is
23 something we can consider and recommend for approval. The, sometimes they are able
24 to show they can use a septic system but there is really no environmental benefit. The
25 septic system would be located in the middle of a field, it really doesn't do anything.
26 Usually these cases center around protection of forest areas where a septic system
27 would have to ultimately take down half an acre or so of woodlands on a property over
28 its lifespan and therefore, we would go ahead and recommend a public sewer. The
29 problem in this case, in particular, was that we were really not convinced that the
30 second house that he was proposing could be constructed on a septic system. The land
31 is very poor for septic systems. There is, they were originally out lots in this subdivision
32 because there was poor septic suitability. If there had been septic suitability somebody
33 would have built a house on it. So we just were not convinced. And this is a process that
34 has to play itself out through our review before we are going to know whether or not we
35 can recommend approval. I would caution that some of language attributed to DEP staff
36 in this letter, I believe, was taken somewhat out of context. We were discussing whether
37 or not a second sewer hookup had been granted to a property that really only qualified
38 for one. My answer was no, it has not, that I know of. We have several cases that have
39 been approved for multiple sewer hookups under this policy. I think it is a grand total of
40 three over the last 12 years or so. But the policy has been used where it is appropriate
41 to make the case for it.
42

43 Councilmember Leventhal,



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1 But once again Alan, let me just ask you, you believe that you did communicate with the
2 engineer retained by Mr. Schrekengost.

3
4 Alan Soukup,
5 Yes.

6
7 Councilmember Leventhal,
8 And told him that the chances of his being approved were slim.

9
10 Alan Soukup,
11 Yes, sir.

12
13 Councilmember Leventhal,
14 It's up to the Chair or the Council President, I don't know if we're going to take public
15 comments.

16
17 Councilmember Floreen,
18 I think it is unfortunate that Mr. Schrekengost feels he has been misinformed perhaps or
19 misled. And I would have to say anyone who is familiar with our land use process,
20 particularly when it involves septic and sewer issues, has to be on notice that it is an
21 unpredictable process with a lot of complications and it is expensive. So I don't think we
22 need any more illumination.

23
24 Council President Knapp,
25 No.

26
27 Councilmember Floreen,
28 Unless our colleagues here would like it.

29
30 Council President Knapp,
31 We open up the door to.

32
33 Councilmember Floreen,
34 We certainly had Mr. Schrekengost at the table with us in the Committee.

35
36 Council President Knapp,
37 I guess, but I want to fill, are you done?

38
39 Councilmember Leventhal,
40 I'm done.

41
42 Council President Knapp,



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1 Who owns the responsibility of communicating information back to the applicant? I
2 mean, he, it appears from the letter, that he was interacting more with Park and
3 Planning than with this office.

4
5 Alan Soukup,

6 Well, this started out as a subdivision plan request so there was quite a bit of interaction
7 with the Park and Planning Commission and the agencies that review plans though the
8 Development Review Committee. Certainly, when somebody files a category change
9 request and presents it to us at DEP, we are the primary contact for that. We will
10 sometimes parcel out communications to WSSC and Park and Planning as it relates to
11 their specific areas of review in the category change process but the primary contact is
12 with our office at DEP. One thing that we have done over the years is to waive off a lot
13 of category changes that you would otherwise see simply because the chances of
14 approval are slim to none.

15
16 Council President Knapp,
17 Right.

18
19 Alan Soukup,

20 And we discussed that with the applicant. We discuss it with their engineers. And I
21 never guarantee anything because I am not the one making the decisions. But I can say
22 there is, you know, there is an outside chance the Council would approve this but it is
23 not good or I can say I think it is pretty good, this is similar to an administrative process
24 that we've gone through before.

25
26 Council President Knapp,

27 But I guess my question is, okay, so this had significant subdivision activity, so were
28 those, if I read the definition of the out lot appropriately, then in order to subdivide, there
29 was going to have to be some type of water and sewer issue addressed at some point
30 in the process.

31
32 Alan Soukup,
33 Yes.

34
35 Council President Knapp,
36 So I guess.

37
38 Alan Soukup,
39 Well, and again, we provide commentary.

40
41 Council President Knapp,
42 Right.

43
44 Alan Soukup,



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1 To Park and Planning on all of these plans and we provided it for Mr. Schrekengost.

2
3 Council President Knapp,
4 Individuals could have gone a long way through the subdivision process before they
5 necessarily had direct interaction with you, so they could have.

6
7 Alan Soukup,
8 Potentially, yes.

9
10 Council President Knapp,
11 Which could.

12
13 Alan Soukup,
14 And you know, we are sometimes the point at which these things are caught.

15
16 Council President Knapp,
17 Right.

18
19 Alan Soukup,
20 When it comes to us for review and we look at it, we say, oh, wait a minute, you guys
21 need a category change and sometimes it is surprise news to the property owner or the
22 engineer.

23
24 Council President Knapp,
25 No, it is tough. I mean, this is a lot of the conversation we have had with many planning
26 issues in the last four or five years and probably before that. But where people interact
27 with the County and they assume that the County is talking to the County. So they figure
28 if they are talking to one person that they're getting the feedback from the County when
29 in actuality they are not necessarily. So, it is a process that obviously needs to get
30 better. Okay. So we're not going to, we can't fix it with this change.

31
32 Councilmember Floreen,
33 Okay. Shall we move on? Alrighty. The next property is the Pollin property. We agree
34 with the County Executive and the Planning Board to approve S1 for a single hookup
35 only consistent with the abutting mains policy for this property but defer an unrestricted
36 sewer approval pending further Park and Planning and DEP evaluation of the
37 applicant's subdivision plans. This is dependent on language in the Cloverleigh master
38 plan which says you can get sewer here in this sort of situation if the developer can
39 demonstrate an environmental advantage to building on public sewer service rather
40 than on septic. Apparently, the parties agreed it seems quite possible that that
41 demonstration can be made at staff level and at the Planning Board level and so we are
42 supportive of that. So that is a yes and a.

43
44 Alan Soukup,



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1 Maybe.

2
3 Councilmember Floreen,
4 Maybe.

5
6 Council President Knapp,
7 So if the subdivision plan comes through with the appropriate modifications then it
8 comes back to us?

9
10 Councilmember Floreen,
11 No.

12
13 Alan Soukup,
14 No.

15
16 Councilmember Floreen,
17 No.

18
19 Council President Knapp,
20 It would just, it would be contingent upon that approval.

21
22 Councilmember Floreen,
23 Yeah.

24
25 Alan Soukup,
26 Actually, it would, at that point, it would be something that could be addressed through
27 the administrative delegation process.

28
29 Councilmember Floreen,
30 Yeah.

31
32 Alan Soukup,
33 And not have to come back.

34
35 Councilmember Floreen,
36 These are the criteria basically for determination. Obviously, if they don't need to cut
37 down a lot of trees to create a septic deal, that sort of thing, it would be an
38 environmental benefit. Next property is the [inaudible] property. This is off of Warfield
39 Road in Gaithersburg. The applicant is requesting public sewer in order to build a
40 single-family home. This is inconsistent with the AG and rural open space master plan
41 and so we are concurring with the County Executive and Planning Board to deny the
42 request. However Keith, we support this, recommends that the County evaluate the
43 area for health hazard issues. This is a recurring theme in these kinds of cases and one
44 of some concern. But again, it is inconsistent with the Ag plan.



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1
2 Council President Knapp,
3 This does come up a lot.

4
5 Councilmember Floreen,
6 Yep.

7
8 Council President Knapp,
9 Why would, are there other homes in the immediate vicinity that would suggest a health
10 hazard survey?

11
12 Councilmember Floreen,
13 I think right now, the challenge with this one is it's not constructed, there is no home
14 there. So, there is no health hazard issue.

15
16 Alan Soukup,
17 But there are.

18
19 Councilmember Floreen,
20 But it has been found in the case.

21
22 Alan Soukup,
23 There are several other properties with homes that have experienced public health
24 problems in the area.

25
26 Council President Knapp,
27 In the immediate vicinity.

28
29 Alan Soukup,
30 Yes.

31
32 Council President Knapp,
33 Got it.

34
35 Councilmember Floreen,
36 And we actually we went around this block three years ago.

37
38 Council President Knapp,
39 Right. Okay.

40
41 Councilmember Floreen,
42 On this particular property. The next one is where we got some new information. Really,
43 a good example of this situation where, you know, you never know exactly what is in the
44 ground and what the rules are. Let me just say this is one of those issues of what's a



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1 peripheral sewer policy in Potomac. Always a challenge. So this is a RE2 property
2 northeast of River Road in Potomac, on Chapel Road. When we had it, the facts of the
3 matter indicated that it would require a significant extension and various acquisition of
4 rights of way in order to provide sewer to this, so it wasn't really consistent with the
5 peripheral sewer policy. And so everyone said no. Since then we have gotten all new
6 information. Keith, you want to tell us about that? So much for what people thought
7 then.

8
9 Keith Levchenko,

10 Well, DEP staff and WSSC confirmed that in fact a house connection has already been
11 constructed for this property most likely around 1998 although it was never actually
12 used. But it was put in place perhaps around the time when a similar house extension or
13 connection was done for a neighboring property that had a health hazard issue. But the
14 reality is, no extension is now needed to serve the property. They just need to connect
15 onsite to their house connection. And that, because they are otherwise consistent with
16 the peripheral sewer policy, the issue really was the extension. The reason for the
17 denial, as staff understands it, is moot, and because they meet the other criteria, staff is
18 now recommending approval.

19
20 Councilmember Floreen,

21 And so is the County Executive.

22
23 Keith Levchenko,

24 Right. We did, that was one of the items in the County Executive memo of March 31st.
25 He is also recommending approval based on the new information. We do not have a
26 new Planning Board recommendation. We did pass this along to the Planning Board
27 staff but they were not able to get it on the agenda or feel comfortable putting it on the
28 agenda without advertising it again so we do not have that.

29
30 Councilmember Floreen,

31 But this is one of those ones where, you know, there are a variety of conditions
32 precedent to proceeding with the peripheral sewer policy which has its own interpretive
33 elements to be sure but one requirement was that you do it in the public right of way.
34 And this now satisfies that. So I would recommend that we approve it. But we haven't
35 taken, we just got this information. Mr. Leventhal, are you okay?

36
37 Councilmember Leventhal,

38 Yes. I am fine. I note that as you may have mentioned, the County Executive's memo
39 recommends approval.

40
41 Councilmember Floreen,

42 Yeah. Yeah.

43
44 Council President Knapp,



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1 Okay.

2
3 Councilmember Floreen,
4 So, that is a new Committee recommendation. Everyone okay with that?

5
6 Council President Knapp,
7 Any objection? Everyone seems okay.

8
9 Councilmember Floreen,
10 Okay. The Drysman property. This is, again, near River Road on Norton Road and
11 Potomac, RE2 zoned properties. They have requested public sewer in order to
12 redevelop the existing lots. They are served by public water and everyone is in
13 agreement that this is consistent with the peripheral sewer policy. No change there.
14 Moving right along, the Davis property is located in the troubling Glen Hills area where
15 there, I believe a study, has the study begun?

16
17 Alan Soukup,
18 It is about to step off.

19
20 Councilmember Floreen,
21 We've talked about this over the years. And this is an area where we are hearing an
22 increasing number of concerns with respect to failed septic. The problem with this
23 particular one, the applicant indicates that there is a failed septic system and it would,
24 the difficulty here is that would involve a very long extension of sewer either through
25 woodland and stream areas or a major, an incredibly expensive, significantly expensive
26 one along Valley Drive in that community. We do not believe that either solution is
27 fiscally possible for an applicant. I will just make an editorial comment. As you will recall,
28 we have had these situations in other parts of the County, notably Clarksburg, where we
29 are seeing these issues and we really do need a solution, a mechanism in place for
30 folks who are facing failing septic to find a fiscal solution for addressing the connection
31 issues that these properties demand when everything else fails.

32
33 Council President Knapp,
34 If I might, just as an aside, building on that, I just want to thank Mr. Soukup for all of this
35 efforts because I know he's working with a number of the communities in Clarksburg
36 and I appreciate that.

37
38 Alan Soukup,
39 Thank you.

40
41 Council President Knapp,
42 And we continue to raise it with WSSC as an issue, how do we explore this.

43
44 Councilmember Floreen,



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1 I think what we are going to need Keith, and I think we've talked about this in
2 Committee, is to work with WSSC on what, a system, whether there is a legislative
3 solution to looking at a different use of this systems development charge or something
4 else, to put together a financing mechanism for these folks to pay over time.

5
6 Council President Knapp,
7 We need something that serves as kind of a, to bring it to a head.

8
9 Councilmember Floreen,
10 Yeah.

11
12 Council President Knapp,
13 And I am not sure what that issue is.

14
15 Councilmember Floreen,
16 Yeah.

17
18 Council President Knapp,
19 If that's.

20
21 Councilmember Floreen,
22 Usually, a good crisis works.

23
24 Council President Knapp,
25 Yeah.

26
27 Keith Levchenko,
28 We have it on our list of issues to discuss when the water and sewer plan update is
29 before us later this year.

30
31 Councilmember Floreen,
32 Well.

33
34 Keith Levchenko,
35 Cost financing in general, and there are a number of different cases we've dealt with.

36
37 Councilmember Floreen,
38 What I think we should do Keith, is just schedule a session with Alan to talk about what
39 are the range of solutions out there and is this a working group kind of thing, staff thing
40 to sit down and review the bidding.

41
42 Council President Knapp,
43 We understand this in the research that we have done, there are potential state
44 programs that are out there.



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Councilmember Floreen,
Yeah.

Council President Knapp,
Federal programs that don't necessarily, we don't fit the parameters exactly but are similar to what we need to try and do, and how do we get all of those entities in a room so we can kind of come up with some different .

Keith Levchenko,
There was a WSSC initiated inter-County working group with Prince George's staff and Montgomery County staff, and it came up with some options, some requiring state legislation, some not. Ultimately you are talking about how to allocate the costs because the costs have gone up tremendously for these extensions. Obviously when you do that there will be people that will pay more and people that will pay less and it becomes a policy issue. WSSC was not prepared to change what is in place now, I think, partly just because of priorities, they had other issues they were dealing with. But we can certainly look at it here from our own perspective and make recommendations for what we think should happen and if it involves WSSC and Prince George's in that sense, we'd have to take it to them. If it just involves us we can try to form solutions for ourselves.

Councilmember Floreen,
Yeah.

Council President Knapp,
I think, let's do that.

Councilmember Floreen,
Well, Keith let's put that on the agenda.

Council President Knapp,
I think it would be worthwhile either, if it is just ours we can figure it out but if it is something that we can put in play with WSSC that helps us in some other negotiating activities, so much the better.

Keith Levchenko,
And the SDC example would require legislation. So that would be more of a longer term solution.

Councilmember Floreen,
Well, I would say a next year project. But in any event I do think we should get going on this because we do have this conversation every time. So what we're, everyone is recommending denial, and recommend that the applicant work with the department to find another solution.



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1
2 Keith Levchenko,
3 Right.

4
5 Councilmember Floreen,
6 Sorry. At this point we don't have a plan. The next one is the Lee Lacer property. And
7 you also have, I think you have a memo, a letter, there is some history with respect to
8 this particular property, but basically, it's RE2, on Piney Meetinghouse Road, north of
9 Glen Road and Potomac, request is for public sewer, they already have public water.
10 There is an existing home. There is some history here as to sort of an accessory
11 building there with respect to, and some issues with respect to who said what to whom
12 with respect to the access of the existing home. Right now, it is in the middle of a
13 Special Exception case. And I guess it is for a, I don't know what it is, accessory home.

14
15 Alan Soukup,
16 It is for what is essentially a guest cottage.

17
18 Councilmember Floreen,
19 So they're in the middle of that process. The recommendation from the Committee was
20 to defer it pending the outcome of the Special Exception case. I really thought we
21 should just put this to rest now but the Committee's recommendation is to defer. Okay?
22 Next one is the Lynn property. Another RE2 property on Glen Road, west of Piney
23 Meetinghouse. Again, this is one inconsistent with the peripheral sewer policy and
24 everyone recommends approval. Then we get into the ever popular private institutional
25 facilities cases. The first one is Julian Patton and Constantine and Helen Greek
26 Orthodox Church. That's over on Norwood Road. And let's see, is this the one? No. The
27 Committee recommends deferral of this one pending receipt of a development plan. If
28 you will recall, we have had a variety of cases in this particular area involving churches,
29 largely resolvable, it's appeared to us historically, with an agreement or limitation on the
30 imperviousness of the site. We recommend that that approach be taken here and that
31 the applicant be given the opportunity to demonstrate how this would fall out. So this
32 would come back to us.

33
34 Keith Levchenko,
35 Yes.

36
37 Councilmember Floreen,
38 Once their plan was more clearly defined.

39
40 Keith Levchenko,
41 I think it's important to note this is a work in progress with the state as well. They've, the
42 Maryland Department of Planning has generally taken a harder line on this than the
43 Maryland Department of the Environment in terms of whether [inaudible] approvals in
44 this area would be consistent with the master plan. So, I'm sure with this request as well



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1 that will be another issue that if the Council were to approve it in some form, we'd be
2 back with the state having to deal with that.

3
4 Councilmember Floreen,
5 There is always something, but this is an issue that is becoming a pretty regular one in
6 terms of location of houses of worship as you will see with the next item. Marc.

7
8 Councilmember Elrich,
9 I don't support this project. It is outside the master plan. It's not what's called for and I
10 don't, you know, I think the master plans need to mean, you know, as much of what we
11 say they mean as possible. I don't think this is appropriate. I believe that, you know, this
12 is in Marilyn's district and that she also did not support this project.

13
14 Council President Knapp,
15 We're moving ahead with deferral at this point.

16
17 Councilmember Floreen,
18 Yeah. Yeah. Did you want.

19
20 Council President Knapp,
21 Go ahead.

22
23 Councilmember Floreen,
24 Got your finger poised.

25
26 Councilmember Berliner,
27 I guess my question is the distinction between deferral.

28
29 Councilmember Floreen,
30 We're not taking an action.

31
32 Councilmember Berliner,
33 We're not taking.

34
35 Councilmember Floreen,
36 One way or the other.

37
38 Councilmember Berliner,
39 At this point.

40
41 Councilmember Floreen,
42 Yeah.

43
44 Keith Levchenko,



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1 Deferral assumes that it would come back within a year. That's the.

2
3 Councilmember Floreen,
4 Yeah.

5
6 Keith Levchenko,
7 Water and sewer plan policy regarding deferrals. A denial would mean the applicant
8 would have to wait at least a year before coming back but a denial also obviously sends
9 a message that this Council opposes it. Absent change in the master plan or a change
10 in the Council, the applicant probably would not come back.

11
12 Councilmember Elrich,
13 And I don't believe this is going to be any more consistent with the master plan a year
14 from now than it is now.

15
16 Councilmember Floreen,
17 That's certainly a point of view. We have had this issue with Peoples, we have had this
18 issue with the Lutheran, I think it's a Lutheran church there and I guess the
19 [INAUDIBLE]. This is a regular issue in this neck of the woods.

20
21 Councilmember Berliner,
22 I would just like to make my thought known that I would support a denial as well.

23
24 Councilmember Floreen,
25 Okay. Next one is the First Baptist Church of Wheaton. This is one where we also got
26 the County Executive's comments on this recommending approval of public water and
27 sewer conditioned upon approval of a preliminary plan that conforms to the intent of the
28 Olney master plan. This was the recommendation of the Planning Board and the
29 Committee and the County Executive. It is located on Emery Church Road just east of
30 Georgia in Olney.

31
32 Council President Knapp,
33 Councilmember Elrich?

34
35 Councilmember Elrich,
36 I mean, again, with this one, I mean, I appreciate the Executive's recommendation, but I
37 note that both of the civic associations, [inaudible] and what is the other one, Sirocco,
38 right, both were in opposition to this and, you know, I don't believe that their concerns,
39 at least I don't see any evidence yet that their concerns with this project have been
40 addressed, either the water table issues and the imperviousness issue, or whether it is
41 appropriateness for the master plan. So I would prefer at least with this one to stay in
42 deferral until there's some evidence that the communities are more comfortable that this
43 is moving in the right direction.



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1 Councilmember Floreen,

2 Well that, what the Committee, everyone's recommendation on this is that it be basically
3 resolved based on the submittal of an appropriate plan to the Planning Board but that it
4 would not come back to us.

5
6 Council President Knapp,
7 Councilmember Leventhal.

8
9 Councilmember Leventhal,
10 I guess I would just like to comment that it seems to me that those who attend church
11 also are part of a community. So that when we use the term community, community is
12 not necessarily limited to those civic associations who communicate with us on their
13 letterhead. Community is a very broad term and the community has many voices
14 including those who need a place to pray.

15
16 Council President Knapp,
17 So the recommendation we have before us is approval.

18
19 Councilmember Floreen,
20 Basically, it is a conditional approval dependent upon.

21
22 Council President Knapp,
23 Site plan.

24
25 Councilmember Floreen,
26 Preliminary plan that conforms to the intent of the Olney master plan. I am not sure if
27 they would have a site plan but they would have to have what is known as a preliminary
28 plan that has, shows where things would be, would include imperviousness, limitation,
29 driveways and the like. As I recall, isn't this, is this the one with the road?

30
31 Alan Soukup,
32 Yes. There is a notation in there.

33
34 Councilmember Floreen,
35 What we heard from the community which was very interesting is that one of the biggest
36 issues here was the feeling that DPWT was going to require some major roadway
37 construction here simply, that would affect the community character in this
38 neighborhood and we were very clear in our direction that that not indeed be the case.
39 Have we communicated that sufficiently to the private parties?

40
41 Keith Levchenko,
42 We can certainly note that in the resolution for the conditional approval the Council
43 intent, direction to the Planning Board.



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1 Councilmember Floreen,
2 Minimize roadway improvement requirements in this case.

3
4 Alan Soukup,
5 And that is something that we can comment on as well through the subdivision process.

6
7 Councilmember Floreen,
8 Yeah.

9
10 Alan Soukup,
11 If it's adopted in the Council resolution.

12
13 Council President Knapp,
14 Okay. So we, so.

15
16 Councilmember Floreen,
17 So it's a very charming access point which is, was really, I think, the biggest, well
18 certainly, a driving factor in the Committee's concern.

19
20 Council President Knapp,
21 So our approval is conditional upon preliminary plan and so we don't see it again.

22
23 Councilmember Floreen,
24 Right.

25
26 Unidentified
27 Right.

28
29 Council President Knapp,
30 How do we, how do we then assure conformance or compliance with the master plan?
31 We just assume.

32
33 Councilmember Floreen,
34 That would be the guardians of the Committee.

35
36 Alan Soukup,
37 That would be the responsibility of the Planning Board.

38
39 Councilmember Floreen,
40 Yeah. Yeah.

41
42 Council President Knapp,
43 Okay. And so.



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1 Keith Levchenko,
2 That's obviously the difference between conditional approval versus deferral. Deferral
3 would come back to the Council. Conditional approval, the Council is saying we're going
4 to rely on the Planning Board to determine those conditions are met.

5
6 Councilmember Floreen,
7 Yeah. And frankly, at that case, they have far more detail.

8
9 Council President Knapp,
10 Right.

11
12 Councilmember Floreen,
13 Than we would ever have.

14
15 Council President Knapp,
16 Right. And then you've – DPWT for the roadway.

17
18 Councilmember Floreen,
19 So, all the, and all these.

20
21 Keith Levchenko,
22 And we can include that note in the resolution regarding the Council's concern about
23 Emery Road or broader road improvements in that area related to this. You'll see that
24 you can see that in the resolution next week.

25
26 Councilmember Elrich,
27 I think they raise serious questions about the water quality issue too. And I, and that
28 needs to be addressed as well. I mean, if a lot of these people are dependent on the
29 ground water there, then, and if they have, if they're, I mean, I'll note just from their
30 letter, they talk about the impact on the water just from the building of a golf driving
31 range. If that's had an impact, this church is most certainly, you know, not likely to have
32 less of an impact. It's going to have a rather large footprint. And I think it is necessary to
33 address both of those issues. And I guess I share some of the concerns of the
34 community about having this go straight back to the Planning Board rather than having
35 the Council take a look at it. And the community, Sirocco asked for a deferral not a
36 denial. Sirocco asked for a denial.

37
38 Councilmember Floreen,
39 Okay well.

40
41 Council President Knapp,
42 Council Vice-President Andrews?

43
44 Councilmember Elrich,



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1 I'll just say we had a huge amount of. Sure.

2
3 Councilmember Floreen,
4 Correspondence on this item, from the, primarily from the church members.

5
6 Councilmember Andrews,
7 Yeah. I would support a deferral on this rather than a conditional approval.

8
9 Council President Knapp,
10 All right. Is there a motion?

11
12 Councilmember Elrich,
13 I'll move for deferral?

14
15 Unidentified
16 Second.

17
18 Council President Knapp,
19 Moved and seconded. Discussion on deferral versus denial or versus conditional
20 approval. Sorry.

21
22 Councilmember Floreen,
23 Well, I'll just say that the reason I said that with respect to what the Planning Board
24 would see is that they will see all the elements of the project at that stage. We, you
25 know, we're not really the arbiters of that kind of thing, we would see a more general
26 thing. We wouldn't see the soup to nuts project that the applicant would be required to
27 submit and have vetted down at Park and Planning. So, I'll just make that, I think they
28 will actually have more relevant and all the information on which a final decision might
29 be made. And as you know, that is an extensive negotiation process down there. It is
30 really not that way here.

31
32 Councilmember Elrich,
33 It appears that we're the ones who make the final decision.

34
35 Councilmember Floreen,
36 Well, we make the policy decision.

37
38 Councilmember Elrich,
39 On the category. And it seems to me that I would like to hear, I mean, one of the issues
40 the community raised is their feeling of being, of a late or minimal involvement in the
41 discussion to the point that it was brought forward. I would like to at least let the
42 community know that before we pass this back to Park and Planning, that before we
43 make the decision to whether a change is even appropriate or not, that the community
44 has been adequately heard. And since we're body that has to make the decision as to



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1 whether the change should be made, it seems to me we ought to be the body to make
2 sure the citizens feel they have at least been heard and that they feel that whether, how
3 they feel about how the church has accommodated their concerns. And I think a deferral
4 better than denial opens the door to that possibility but it leaves us making the decision
5 as to whether or not the grounds for making that change have been satisfied. Otherwise
6 we make the change and Park and Planning is basically doing design decision.

7
8 Councilmember Floreen,

9 Well, I will just say in response we did ask the church to meet with the community and I
10 believe those conversations are continuing. But again, we are not the best equipped, I
11 think, to manage those conversations, to resolve, to find and to apply regulatory
12 standards the way Park and Planning is. So we're really, you know, it's fine if you, I
13 don't support this motion but I'll just say there will be far better detail for the community
14 to respond to and for the church to know what was involved or not, along with the
15 expertise relevant to making that decision at the Park and Planning level.

16
17 Alan Soukup,

18 There is an option in this process and I will ask Mary Dolan to make sure I am not
19 stepping off a very big ledge.

20
21 Councilmember Floreen,

22 I think she's.

23
24 Council President Knapp,

25 She comes to help you.

26
27 Councilmember Elrich,

28 To step off?

29
30 Councilmember Floreen,

31 To pull the cane there.

32
33 Council President Knapp,

34 Pull him back, one or the other.

35
36 Alan Soukup,

37 The applicant does have the option of submitting a pre-application plan to Park and
38 Planning. In fact, they can ask for it to go before the Planning Board for the Planning
39 Board to comment on specific issues such as imperviousness, road impacts, water
40 quality impacts, things like this. The Board will give them a non-binding commentary as
41 to whether or not they think they should proceed with what they're doing or they need to
42 modify it. That could be part of the process here under a deferral.

43
44 Council President Knapp,



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1 Councilmember Leventhal.

2
3 Councilmember Leventhal,

4 Well, I'm going to comment a second time on the use of what I think is a polarizing
5 vocabulary and I am afraid a number of Councilmembers have used it now. It's clear
6 that there are residents opposed to the application and there are also residents in favor
7 of the application. To suggest that those opposed to the application constitute the
8 community and that somehow the church is not part of the community or that those
9 opposed to the applications are the citizens and those who belong to the church are not
10 the citizens, I just object to that vocabulary and terminology. I do not think that is an
11 accurate description of the role the church plays in the community or the status of the
12 church's members. So I try to be very careful about my words. We have supporters and
13 opponents of the application.

14
15 Council President Knapp,
16 Council Vice-President Andrews.

17
18 Councilmember Andrews,

19 Thank you President Knapp. And I certainly agree there are many segments to the
20 community. It's a community, there are many communities of interest. But I did note that
21 the memorandum that we received through the Council President from Maryland
22 Department of Planning commenting on this item said this property, commented this
23 property is not within the sewer envelope provision. A community sewer to this property
24 is inconsistent with the Olney master plan. The provision of community water service is
25 consistent with the plan. So, we have that opinion at least from the Maryland
26 Department of Planning about this. It gives me caution which is why I support deferral.

27
28 Councilmember Floreen,
29 Where is that?

30
31 Councilmember Andrews,
32 I think on, I think that's the correct reference.

33
34 Keith Levchenko,
35 Yeah, the Maryland Department of Planning submitted a letter commenting on all of the
36 requests.

37
38 Council President Knapp,
39 Was that in the packet?

40
41 Keith Levchenko,
42 It's not in, I just got it myself today.

43
44 Council President Knapp,



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1 Oh.

2
3 Keith Levchenko,
4 Now, their comments at this point are just advisory. They will formally review it with
5 MDE after the Council action.

6
7 Council President Knapp,
8 Do we all have copies of that?

9
10 Councilmember Elrich,
11 No.

12
13 Councilmember Floreen,
14 No.

15
16 Keith Levchenko,
17 I literally just got it about a hour ago.

18
19 Council President Knapp,
20 That would be helpful.

21
22 Keith Levchenko,
23 But, once again, MDP is advisory to MDE. MDE makes the final decisions. So, I don't
24 think we necessarily want to predict up front, based on what MDP says, that that is what
25 the state position is. This is purely advisory at this point. And I think a lot of times they
26 do tend to echo what the Planning Board says about master plan recommendations.

27
28 Councilmember Leventhal,
29 The Planning Board staff.

30
31 Keith Levchenko,
32 And staff.

33
34 Councilmember Leventhal,
35 The Planning Board recommended conditional approval of this.

36
37 Keith Levchenko,
38 Ironically in this case, the Planning Board recommended approval, somewhat
39 surprisingly to staff.

40
41 Council President Knapp,
42 Okay. Councilmember Berliner.

43
44 Alan Soukup,



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1 I am not sure that MDP has had the benefit of the Planning Board and staff positions on
2 this issue.

3
4 Councilmember Berliner,
5 I guess I was wondering whether or not the suggestion that you just made previously
6 with respect to going to the Planning Board for an advisory opinion, is that what I
7 understood?

8
9 Alan Soukup,
10 Yes.

11
12 Councilmember Berliner,
13 Is a middle path here by which the process can go forward that we can combine that
14 explicitly in the deferral options that so that if in fact we get this back from the Planning
15 Board staff and Planning Board with these issues having been reviewed and given their
16 blessing, then we would be good to go. So, it seems to me.

17
18 Alan Soukup,
19 There's a.

20
21 Council President Knapp,
22 Say that one more time.

23
24 Alan Soukup,
25 There is always a need in the deferral to state what you are deferring for.

26
27 Councilmember Berliner,
28 Yes.

29
30 Alan Soukup,
31 So that was one of the issues I was going to bring up. But that would be, that certainly
32 can be part of it. You could also add communication with the community, local
33 residents, something along those lines. We would have to work out the language on
34 that.

35
36
37 Councilmember Berliner,
38 I would be in favor of that particular approach. And if you'd like to say it again, what I
39 took from what you were observing was that this would allow the community, the entire
40 community, both the church community as well as the residents, to have a better
41 understanding of the impact of this proposal on water issues that the Planning Board
42 could issue an advisory opinion with respect to those matters and then it would come
43 back to us with those recommendations in mind.



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1 Alan Soukup,
2 Essentially, yes. You would defer it pending a, the Planning Board's review of a pre-
3 application subdivision plan for this project, and would ask that the Board transmit their
4 commentary on the application back to the Council.
5

6 Council President Knapp,
7 And then, I guess, I would ask Ms. Dolan as to what the differential there would be. I
8 mean, what would, so we would get this pre-application, and we would look at what, just
9 make sure that everyone had spoken to everyone?
10

11 Mary Dolan,
12 Well, you would certainly have, Mary Dolan, Park and Planning, you would certainly
13 have more information. You wouldn't have the level of detail that Councilmember
14 Floreen was talking about. You wouldn't have a fully formed storm water management
15 plan. You wouldn't have a lot of detail but you would have more information than you
16 have now. In fact, the plan that they presented to the Board they said, in fact, was only
17 illustrative and they really didn't mean what they had on paper. So, I also want to
18 correct, I misstated, the Planning staff's position was for deferral, not for approval. So, I
19 apologize.
20

21 Council President Knapp,
22 The Planning Board voted to.
23

24 Mary Dolan,
25 The Planning Board voted to conditional approval, with looking at a preliminary plan and
26 determining at that time whether or not it's consistent with the master plan. They would
27 make that determination based on the more detailed information Ms. Floreen was
28 talking about.
29

30 Councilmember Floreen,
31 I'll just say, I mean, basically what the proposal that is now on the table is to have them
32 go through it twice.
33

34 Mary Dolan,
35 Yes.
36

37 Councilmember Floreen,
38 As opposed to.
39

40 Mary Dolan,
41 It certainly, it's an option if you feel strongly.
42

43 Councilmember Floreen,
44 At one point.



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1
2 Mary Dolan,
3 Right.

4
5 Councilmember Floreen,
6 I mean, you put yourself as the arbiter of the Planning Board's decision at that point and
7 we're just saying, well, they would decide with respect to the master plan compliance.
8

9 Council President Knapp,
10 I guess one of the biggest frustrations I have had with this, all of these types of issues
11 since I've been here is the amazing inconsistency we have had in an application of how
12 we try and do these things, which is why we ended up putting different policies in place,
13 and tried to clarify that. I guess, to the extent that we are having organizations, be it the
14 individuals, churches, nonprofit organizations, whomever, come forward and go through
15 a process, I think we have to let that process operate. We keep giving the Planning
16 Board the regulatory authority, I am sensitive to the concerns raised by the
17 communities, as obviously I represent the community, by the same token, if we do
18 things like this that basically says well we are not really sure the Planning Board can get
19 it right so it's got to come back to us. And I have great concern about taking that kind of
20 an approach especially at a time when we are saying the Planning Board does do these
21 things, this is in their domain, this is what they are supposed to be doing and I think we
22 can in the resolution provide as much guidance as possible, and say here are the
23 concerns that have been raised and do that, but I think we have to let the Planning
24 Board do their job. That's why we have a Planning Board. Otherwise we're the Planning
25 Board and I'm pretty sure I don't want to be in that role.
26

27 Councilmember Floreen,
28 It's much harder. [laughter].
29

30 Councilmember Elrich,
31 But oddly this, but this winds up in our lap although I, I mean, this isn't the Planning
32 Board that's making this decision about the category change, they are not the ones that
33 make that decision, it's the Council. So apparently somebody thought we were the right
34 place to make that decision.
35

36 Council President Knapp,
37 To make the category change but then to actually make sure that the elements of the
38 master plan are applied appropriately is clearly within the domain of the Planning Board
39 to try and do that because they're doing that with every other application that comes
40 forward. And so I think that is important, that if, and to make sure there is effective
41 community input, to make sure that all the parties are at the table, to make sure that
42 issues like water quality are addressed. If our Planning Board's not addressing issues
43 like that, we have got bigger problems, in my perspective. Further discussion, we have
44 a motion before us. I don't see any further discussion. Motion before us to defer.



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Councilmember Elrich,
With his recommendations.

Council President Knapp,
With the language as provided, as amended, with the language provided by
Councilmember Berliner. All in support of deferral? Councilmember Berliner, Council
Vice-President Andrews, Councilmember Elrich. All in support of the Committee
recommendation? Councilmember Leventhal, Councilmember Ervin, Councilmember
Floreen and myself. The motion fails 3-4. Okay.

Councilmember Floreen,
Okay. Next one, Bethel World Outreach Ministries. Some of you were not here for their
time with us several years ago where this Council, I think we denied their application.

Alan Soukup,
2005.

Councilmember Floreen,
They are out in the Ag reserve, I think it's RDT property on Brink Road just east of
Wildcat, and basically, just east of Route 27. The recommendation here is to, they are
requesting a multi use system, approval for their property. There is a lot of history here
about what kind of, some of you weren't here for these conversations some years ago
with respect to the size of acceptable multi use systems within the Ag reserve. And in
the meantime, we also approved a Zoning Text Amendment since they were before us
the last time which basically limits the uses in RDT zoned properties where TDRs have
been removed from the property. That in fact, is the case for the Bethel property. So,
right now, they are down to a very constrained use on this property. And that does not
include a church. We all recommend deferral of this decision pending submittal by the
applicant of a proposal that is consistent with that Zoning Text Amendment.

Council President Knapp,
I see no comments.

Councilmember Floreen,
Finally, well, another decision not to be made, that's the Travilah Oak property. This
was, we had heard a lot from all sides on this issue. It's one of these anomalous C1
properties in the middle of the countryside, basically, at the corner of Glen Road and
Travilah Road. They have the, what is the oak, the Travilah Oak.

Alan Soukup,
Yes.

Councilmember Floreen,



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1 Beautiful property. They would like to expand their service there to users that require
2 more water. But there was, they are quite, there were, we saw mixed recommendations
3 from the County Executive and from the Planning Board. No and yes. And at the last
4 minute we got a request from the applicant to basically take this off of the agenda. So
5 our recommendation is to defer this. And if there can be some community consensus
6 that gets worked out they can come back. We shall see.

7
8 Council President Knapp,
9 Okay.

10
11 Councilmember Floreen,
12 That is it.

13
14 Council President Knapp,
15 Okay. Do you need anything more from us for the resolution?

16
17 Keith Levchenko,
18 No. I think that is good. We will draft that and it'll be circulated for next week. Right.
19 Right.

20
21 Council President Knapp,
22 Okay.

23
24 Alan Soukup,
25 Thank you.

26
27 Council President Knapp,
28 Thank you all very much.

29
30 Councilmember Floreen,
31 Thank you.

32
33 Council President Knapp,
34 We now turn to.

35
36 Councilmember Leventhal,
37 Mr. President? Point of personal privilege, I apologize to Mr. Nelson and to those who
38 worked on the infill development taskforce, I will watch the videotape of the next two
39 presentations. I have a chest cold and I was lucky to get a doctor's appointment this
40 afternoon and I need to go to that. Otherwise, I'll just get sicker. But I am very interested
41 in the presentation that you have to make and I will watch the videotape.

42
43 Council President Knapp,



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1 Thank you very much. We now turn to staffs report on foreclosures. I believe we are
2 being joined by Mr. Nelson, Mr. Friedman, and who's staffing us on this? Ms. McMillan
3 and Ms. John. Oh welcome. Come on up and once we have everybody up here, we'll
4 introduce everybody. Thank you ma'am. I just wanted to thank everyone for
5 participating in this. I know that the Public Safety Committee has had a briefing by
6 Consumer Protection. And I believe the PHED Committee has had a foreclosure
7 discussion scheduled but had that postponed. And so, basically this is an effort on the
8 part of the Council to get an understanding as to the magnitude of the foreclosure issue
9 in Montgomery County, to also hopefully understand what are some of the efforts being
10 identified by the state legislature or state government more broadly as to the role that
11 the state can play. What are perhaps some of the federal suggestions that are taking
12 place out there and then to see ultimately if there is, besides just being better informed,
13 is there a role that we at the local level can be doing more of or supplementing or
14 complementing those other activities that are taking place out there in other jurisdictions
15 or at the state and federal level? And so with that, I turn, I believe you are leading the
16 charge Mr. Nelson.

17
18 Rick Nelson,
19 Rick Nelson, Director of Housing and Community Affairs. The whole problem of
20 foreclosures is significantly exacerbated. I believe members of the Council have
21 received a copy of a February report on mortgage loan delinquencies and foreclosures
22 in Maryland. This report has been provided to us yesterday by the State Department of
23 Housing, Community and Development and we are pleased to actually have the Deputy
24 Secretary with us, Mr. Clarence Snow, who will speak in a few moments. Let me just
25 call your attention to page 11 in that report. It's a chart that describes the loan
26 characteristics in Montgomery County. And I just want to show you sort of the change in
27 magnitude of the problem. If you look at the County total, and go over to the
28 foreclosures, all loans, in the month of February, there were 1726 foreclosures. That
29 compares with, and this number you don't have, 1153 foreclosures in the month of
30 November in 2007. It also compares with a total of 3,349 foreclosures in all of 2007. So
31 we are looking at one month, which is more than half of all the foreclosures we had in
32 2007. And going over to the foreclosure rate column, which is the last one, that total
33 shows you that for all loans in Montgomery County the foreclosure rate is 1.1 for sub-
34 prime loans, it's 8.4 in February. That is juxtaposed against an '07 rate of 0.8 and 6.3.
35 So there has, in fact, been a significant change. And the other thing that you have which
36 I'd call your attention to, I believe, each of you has a copy of these maps.

37
38 Council President Knapp,
39 Yes.

40
41 Rick Nelson,
42 Beautifully color coded and stuff. One map shows mortgage loan delinquencies by zip
43 code. The other shows mortgage loan foreclosures by zip code. And this again is for the
44 month of February. Without going into all of the details, let me just pick out the four top



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1 zip codes. 20874 in Germantown during February had 241 foreclosures, had 586
2 delinquencies. Aspen Hill, 20906, had 153 foreclosures, had 382 delinquencies.
3 Gaithersburg, 20879, had 128 closures, 299 delinquencies. Montgomery Village, 20886,
4 125 foreclosures, 273 delinquencies. Those four zip codes represent the highest rates
5 in both those categories, delinquencies and foreclosures by zip code which is significant
6 in terms of the location of some of the most serious problems. And another thing I
7 should actually mention is that in the memo that was given to you a month ago we
8 indicated that during the coming year there will be a number of resets and for the
9 adjustable rate mortgages that means the mortgage interest rate will reset. A lot of that
10 is going to occur over the course of the next six months and you are going to see all of
11 these numbers, I think, and Deputy Secretary Snow can confirm this, I think, all of these
12 numbers are going to significantly increase because there are a significant number of
13 these about to occur. Let me just quickly say that the impact of these foreclosures and
14 the delinquencies is really widespread and I think there are a lot of misperceptions. I
15 think there are some misperceptions that a lot of this is a result of people who have just
16 purposefully overreached. I can tell you having talked to some, having been in forums
17 that in a lot of cases you had families who were given loans and actually had the
18 position that if the bank approves it I can afford it because that is just the way some
19 people think because banks have been sacrosanct. That gets back to the whole issue
20 of, I think, very bad underwriting on the part of a lot of banks. Also you've got a lot of
21 families who didn't fully understand what ARMs and resets meant. And they look at a
22 reset of two basis points. That is a significant hit on their budget. And as I said, we have
23 a large number coming up in the next six months. The other is that there are some real
24 personal and community impacts. One is, if there is a foreclosure, where are the people
25 going to go? And the other even related to that, have they found a place to rent? One of
26 the things that folks are finding out is, you know, if you get foreclosed upon, your credit
27 is ruined. You can't rent. I clearly remember talking to a family, and this is I don't think
28 atypical family, they had been a homeowner for years for two kids, and they were
29 convinced by some person to go buy a house in Olney. They bought a house that they
30 got a loan for which they could not afford, they didn't realize that. It was reset. Within
31 two years they lost the home. They went to go rent an apartment and they couldn't get
32 an apartment because the apartment owner wanted to have good credit rating. They
33 ended up having to depend upon their priest to speak up for them. That is not an
34 uncommon occurrence. I think the other issue is the whole impact on neighborhoods
35 and one of the things that we want to look at more closely is do we have some specific
36 neighborhoods within some of these zip codes that are also hit. Because if you have got
37 a large number of foreclosures in a particular neighborhood it can have a depressive
38 effect on the property values, but more importantly it can have a depressive of effect on
39 the physical environment of the neighborhood. If you've got foreclosures, they're vacant
40 properties, they're subject to vandalism. So those are some kinds of things that we want
41 to look at. Because of this growing problem, DHCA has been working very closely with
42 Eric Friedman and OCP in trying to look at the magnitude of the problem in Montgomery
43 County and what we can do. We have been working over the last number of months
44 closely with the State Department of Housing, Community and Development, who has



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1 been looking at this thing statewide and coming up with some solutions. I think the
2 major one, and I will let Deputy Secretary Snow indicate the focus of their attention, is
3 really on doing some counseling. Because you have got to get to these families before
4 the notice gets posted up on the door. As a result of the work that we have been doing
5 with the state, I can say that just today I have in fact signed three memorandum of
6 understanding, where we are going to leverage some County funding with state funding
7 to in fact help in this regard. But there are other things that we're doing. We held a
8 meeting last week. The municipalities around the County, different organizations that
9 are involved in counseling, different organizations involved with the susceptible
10 communities, to really talk about what is happening with the problem, who is doing
11 what, how we can coordinate and build up a coalition to try to address this and to help
12 the residents of Montgomery County. With that sort of brief introduction I would like to, if
13 I can, introduce to you the Deputy Secretary Clarence Snow who can talk a little bit
14 about what the state is doing and we are going to be doing with them.

15
16 Clarence Snow,
17 Good afternoon.

18
19 Council President Knapp,
20 Welcome. Thank you very much.

21
22 Clarence Snow,
23 I appreciate the opportunity to be here, to be a part of this discussion and briefing as a
24 member of the state government and also a resident of Montgomery County. This
25 situation that we are facing right now is actually a crisis not only for Maryland but it's a
26 crisis for the nation and it's part of an international crisis in the financial services
27 marketplace. As you, I am sure, heard over the past few weeks, with the situation with
28 one of our largest investment banking firms, one of the oldest and largest, Bear Stearns,
29 going down, being purchased through negotiations with the Fed and J.P. Morgan
30 Chase, that has put a dent in the marketplace. But just today, there was an
31 announcement by UBS which lost \$19 billion primarily in subprime and adjustable rate
32 mortgages in the first quarter of 2008. First quarter, \$19 billion. They charged off which
33 netted them at \$15 billion loss for the first quarter of this year. So you can see that this
34 issue is serious. I would say that across Maryland, this particular crisis touches every
35 County in Maryland, some a lot more than others. It is a particular problem in Prince
36 George's County, about 25% of the delinquencies and foreclosures in the state of
37 Maryland are happening in Prince George's County. Montgomery County is second with
38 about 13.5%. Second and third to that is Baltimore City, and then Baltimore County. But
39 then it also goes into Frederick County, and Rondo, and Charles. And that's probably
40 about 75% of the activity, the foreclosure and delinquency activity for Maryland, are
41 happening in those counties, but the top four you heard about. And so our, we have
42 been watching the numbers over the past year or so, we have seen those numbers
43 significantly increase for a variety of reasons. I can tell you, just expand on the numbers
44 that Director Nelson gave, that at the end of 2006 for Maryland, there were, and you



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1 know, we have been in a hunt for perfect data, we still don't have perfect data but we
2 have a number of sources that we use to try to collect information to understand what is
3 going on. So there are two sources of information that you have in front of you. I think
4 the maps are based on McDash and you may have gotten some previous information
5 from Realty Track which is another major source that is quoted a lot of times in the
6 paper. I'm quoting from Realty Track right now. Just to give you an indication of the
7 change and the significance of the events that have taken place. Realty Track uses
8 something called foreclosure events, which includes not only foreclosure notices, the
9 foreclosures themselves, but also purchases by the banks, the REOs, the real estate
10 owned. Just to give you a perspective. At the end of the fourth quarter 2006, for
11 Maryland, there were 715 foreclosure events in Maryland, 715. At the end of the fourth
12 quarter of 2006. At the end of the third quarter of 2007, there were 7,000 foreclosure
13 events in Maryland. So it went from 715 at the end of 2006 to 7,000 at the end of the
14 third quarter of 2007. At the end of last year that number jumped by 40% to 9,722. So
15 you can see where that is going. And as Director Nelson mentioned earlier, we
16 anticipate with the adjustable rate mortgages that are out there, especially the
17 adjustable rate subprime ARMs that there will be over the next 12 to 18 months about
18 25,000 mortgages in Maryland that will reset, that are set to reset which presents a
19 particular problem because it has the opportunity for the payment to go up and further
20 exacerbate a bad situation. The recent reductions in short-term interest rates has
21 helped that situation coming from the federal government, the federal reserve in
22 particular, to lower short-term interest rates so that some of those loans, the resets
23 won't be as great. However, we have already seen, even before the bulk of the resets
24 take place, people running into difficulty, already into delinquency and into default
25 before their loans reset. So, that tells us that there is something else at the core that's
26 wrong. The state's response, working with its partners in the community, and in the
27 various jurisdictions, counties across the state has been initially to respond to what we
28 thought the problem was, which was initially that there were people in adjustable-rate
29 mortgages that were about to reset or had just reset, that needed to get out of those
30 ARMs, adjustable rate mortgages, into a fixed rate loan. The Governor made a
31 commitment, Governor O'Malley made a commitment last June as a part of our
32 homeowners preserving equity initiative to commit up to \$100 million in financing to help
33 families, working-class families get out of adjustable rate mortgages into a fixed rate
34 sustainable mortgage. What we found out from not only our experience but also the
35 experience of other state housing finance agencies across the country, is a lot of the
36 folks that we were looking at or talking to who are calling the hot line numbers that we
37 had set up were people who are already deep into delinquency and set to foreclose
38 within days. Some of that has been addressed I think with some legislation that has
39 been put forward by Secretary Perez to provide more notice for families. It's possible in
40 Maryland to go from notice to foreclosure in 15 days currently but with some legislation
41 that's before the general assembly today, now, that's been recently approved, that will
42 extend that period up to 120 days. So that will allow for earlier notice and also
43 opportunities to work some of those loans out. But the point I am trying to make is that
44 this situation has been, has revealed itself and our response has been more, sort of an



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1 evolution. Initially we thought it was good people in bad loans, meaning in adjustable
2 rate loans. There was this, I described it yesterday as a part of, I guess, I am quoting
3 former Fed Chair Alan Greenspan, over the past five or six years we have been
4 involved in the mortgage business, irrational exuberance. Where, you know, anybody
5 that had a pulse that walked into a mortgage broker got a loan, pretty much, you almost
6 had to be dead not to get a loan. And I wouldn't doubt that there are a few people out
7 there that are dead that did get mortgages anyway. Who knows. There is a lot of fraud
8 going on. But the point I'm trying to make is that, it was such, so high flying and free-
9 wheeling that was going on in the business, that I think there were people who were into
10 things that didn't realize. There are people today who do not know that they have an
11 adjustable rate mortgage. They were in a fixed rate loan. They refinanced to lower their
12 interest rate. They might have refinanced again to take cash out to do home
13 improvement or other things, pay bills, consolidate, whatever, that don't realize that they
14 are in an adjustable rate mortgage today that are about to reset and get into trouble and
15 there are others who were under the impression that they could refinance their way out
16 of this as their properties went up in value each year, 10%, 20%, 15%, that there was
17 extra equity and they could come back and refinance, and never really kind of pay their,
18 you know, meet their obligations. And there are others, I mean, there are people out
19 there who I believe who abuse the process, who bought more house than they can
20 afford, there are others out there who use their house as an ATM and drew out all of the
21 equity. But I think that the majority of folks that are out there either were working class
22 folks who were trying to find a way to become, to achieve the American dream of
23 homeownership, to start to create an asset that would grow and create equity for them
24 in wealth, and were in a situation where prices were going through the roof, they were,
25 you know, growing at, you know, 10%, 15% a year and they were getting a 3% to 4%
26 annual increase and then were trying to find some creative financing that might solve
27 that problem at least temporarily. And they were led to believe by brokers and others
28 that this was a no-brainer, if you run into any difficulty, just come back and we'll
29 refinance you and that when the markets start to tighten, liquidity moved out of the
30 marketplace, these folks were stuck. They were in a situation that was not sustainable
31 and now they are trying to find a way to get out. This is a problem that not only affects
32 those people directly but it affects us all indirectly. If we go into a tailspin as far as a
33 number of foreclosures in neighborhoods, it will drive down values for all of us, it will
34 create, it will lower the standard of living for all of us as a result of this crisis. We do
35 have to take it on directly. Our initial response again, with the homeowners preserving
36 equity was to create a refinancing product called Lifeline that the Governor committed
37 up to \$100 million in refinancing. We followed that up with additional housing counseling
38 because one of the things that we learned is that to unwind some of these, people need
39 to be able to sit down face to face, one on one with somebody that does not have a
40 vested interest in that financial transaction, to understand what their best options might
41 be to unwind this deal, whether that is to work with our services to restructure those
42 loans or to refinance those loans or to get out, to get out in the form of a short sale or a
43 deed in lieu. We have tried to come up with a menu of solutions that respond to those
44 scenarios. There is, we talk about the subprime and mortgage crisis but it's not generic.



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1 There are folks that are in there that cut across the economic strata, geographic strata,
2 and they are impacted in different ways. But the similarity is that they are in situations
3 that are not sustainable and they need to find a way to get out. Some people are in
4 situations where they are upside-down in their mortgage, meaning they owe a lot more
5 than the house is currently worth. Others are in a cash flow crisis. They don't have the
6 cash because of stated income loans or option ARMs, whatever, they got into a
7 situation thinking that they could work their way out and they couldn't get out. The state
8 has created refinancing products, it has created, with the second response where
9 people needed to buy time to have a good faith conversation with their servicers and
10 their lenders, something called Bridge to Hope which is a short-term loan that allows
11 people to buy that time to bring their loan up to date so that they can work with their
12 services or work with the lender to come up with a product that they can use to
13 refinance out assuming that they can afford the house. That is a basic assumption.
14 We're not looking to throw good money after bad money. If the situation is not
15 sustainable, then we need to deal with that directly. Again, that may mean a short sale
16 or some other type of negotiated arrangement to get out of that property. We have had,
17 as you know, the Governor has called on the servicers of mortgages in Maryland to
18 come to Annapolis to sit down with us to talk about how we might be able to make the
19 process more transparent. Housing counselors are telling us that they have been on the
20 phone for 45 minutes to an hour waiting to get through to a loss mitigation specialist to
21 try to work out the situation with homeowners that have come to them for relief, that is
22 unacceptable. They have gone 30, 60, 90 days just to get an answer as to whether or
23 not the servicer will accept a modification arrangement. We would have never accepted
24 that on the front end, that it would take 90 days to get a loan decision from your bank,
25 so why does it take 90 days to get an answer on the backend. And so the servicers
26 have met in Annapolis twice. We've sat down with a dozen of the major servicers from
27 around the country, the WAMU, the Bank of America, the Wells Fargo, all of those folks
28 to talk about how we can make that process more transparent. There are good people
29 out here who want, who have good faith who want to find a way to make this work, they
30 are not trying to beat the system but they can't get through and they need to find a way
31 to be able to get through where there is an opportunity to work this out. When we
32 foreclose, everybody loses, the bank loses, the investors lose, the community loses, the
33 state loses, and so we're trying to find a way. This is hard dollars. Hard dollars are lost.
34 And so we call the servicers in, we're working on making that process more transparent
35 to counselors and to homeowners so that they know what options are available working
36 with their servicers. The second piece is that we've called on local and regional banks to
37 come in, to sit down with us. One of the commitments as a part of Hope, the state set
38 aside \$10 million of its mortgage insurance reserves to leverage with local and regional
39 banks to create some liquidity. People go in, they work with their counselors, they're
40 ready to refinance but nobody's out there refinancing. The bank says, well, the best I
41 can do is a 70% loan value for a working class family. What does that mean? Seventy
42 percent, it is unreasonable, it can't be touched. And so what we have been able to do is
43 take that \$10 million, which is mortgage insurance, and use it as a credit enhancement
44 working with local banks. I think that is where the solution is. I don't think the solution is



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1 going to be with the national banks. I think it's going to be with our hometown banks like
2 Sandy Spring and others that are going to sit down with us, they're Maryland
3 corporations, Maryland corporate citizens and we want to try to work, come up with a
4 solution for Marylanders. We have had meetings working through the Maryland Bankers
5 Association. They're actually, the Board is meeting today, of Maryland Bankers
6 Association, to respond to a proposal that we put forward to provide that credit
7 enhancement to offset some of that risk, such that we can create refinancing
8 opportunities for people who have gone through counseling, who the counselor has
9 worked with them to develop a viable, sustainable solution to their current situation, to
10 be able to get a mortgage that they can afford and they can stay in that property. We
11 have done a number of outreach initiatives. Later this, soon, the Governor will be
12 making an announcement about a state-wide outreach and marketing strategy to reach
13 out to people. Too often, we are hearing back from investors and bankers that people
14 are putting their heads in the sand. They are getting notices from their bankers. They're
15 not responding. Fifty percent of the people that were foreclosed on last year across the
16 country, 50% of those folks never picked up the phone to call their servicers to try to
17 work out an arrangement. Fifty percent of those. That's, you know, that's unbelievable.
18 It's true. And so they are telling us that people are not responding to the mail, they are
19 not responding to phone calls, and they are willing to work out forbearance agreements
20 and loan modification agreements. And so, again, I just want to, just in summary, I want
21 to say that this is not just a Montgomery County issue. It's a state of Maryland issue. It's
22 a United States issue. It's an international issue. It affects us all if we don't get our
23 hands around it. Thank you very much.

24
25 Council President Knapp,
26 Thank you Mr. Deputy Secretary. Appreciate your coming down to visit with us. Mr.
27 Friedman.

28
29 Eric Friedman,
30 Good afternoon. Eric Friedman, Director of the Office of Consumer Protection. The
31 experts are sitting to my left, so let me just make three quick comments. First is that the
32 Consumer Protection Office has been serving as first responders in our role in joining
33 with the state and other County agencies to help in this crisis. We rely heavily on some
34 trained volunteers who have become experts. And since February 1st, we have met,
35 just in the last two months, we have met with between 40 and 50 individuals who have
36 serious foreclosure problems, most of them are problems with ARMs, sitting down with
37 them and trying to get them directed to the proper resources. There are lots of
38 resources out there, but one size doesn't fit all and we do know the criteria for the
39 various programs, be it the state program or federal program, so what we've been trying
40 to do is analyze the consumer's problem, we can recognize the consumers immediately,
41 they are the ones sitting in our reception area, looking downtrodden with a shopping
42 bag full of paper and pretty clueless as to.

43
44 Council President Knapp,



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1 One of us.

2
3 Eric Friedman,

4 Perhaps. But, much of the time that we take is just trying to figure out what their
5 particular situation is, every situation is unique, and get them to the proper resources.
6 Number two, we've been trying to do as much as we can in terms of outreach. We've
7 gone to the circuit court to try and make arrangements and find out which loans are
8 going to be resetting. We have put together a brochure because our office likes to be at
9 all the town hall meetings and every place we can be to make sure consumers know. As
10 the Deputy Secretary mentioned, 50% of the people in trouble never call their services
11 or lenders. We are also working to co-brand some public service announcements that
12 have been produced. And finally, let me just say, today is April 1st, which is the effective
13 date of the estimated property tax disclosure law, Bill 24-07, and that's just one piece of
14 it but hopefully that will ensure that future purchasers know the extent of their tax
15 obligations and how much their monthly payments are going to be and we're hoping that
16 with some enforcement action there we can alleviate some of the, one aspect of some
17 of the problems in the future. Thank you.

18
19 Council President Knapp,

20 Great. Thank you very much. I think there will be a number of questions from
21 Councilmembers but thank you all for your thorough overview. The one thing I wanted
22 to get to before we delve into too many questions is you have all indicated people don't
23 call or haven't been in touch with anybody, nearly 50% of the folks who've had
24 foreclosures haven't contacted their lending companies or anyone else. So I guess the
25 first thing to get out there is if someone has a question, if someone has an issue, who
26 should they call and who do they get in touch with? I mean, first, I mean, you've given
27 us this piece of paper. Is this, I mean, I would like to, for the benefit of anyone who may
28 be listening in, what is the simplest way for them to get in, first, get in touch with
29 somebody. And second, who?

30
31 Rick Nelson,

32 There really are two basic telephone numbers that people can call for some initial help
33 and assistance. The first one is your (877) 462-7555. That's (877) 462-7555, that is the
34 Maryland Hope hotline. People call in to that line and explain to trained folks what their
35 issue is and they are led to a solution. There is also a national hotline which is at (800)
36 569-4287, that's (800) 569-4287. It is important to also mention that we are trying to
37 limit the number of these different telephone numbers that get thrown out there. The
38 partnership that we have with the state, we are focusing on the calls that we get into our
39 office and that Eric gets into his office. We're going to encourage our people to call this
40 Hope line. They will then get referred as appropriate to the individual housing
41 counselors that are being funded as a result of the joint effort between the state and the
42 County. That is the first thing that folks should do when they sense trouble, not after
43 trouble has hit. I mean, one of the, again, I go back and I know it is anecdotal but, I had
44 one family who came up to me and said well, we signed a paper and, you know, we are



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1 obligated to do that. They didn't realize or think about the fact that there is a potential
2 solution and they were embarrassed to call. I mean, that is another part of the thing. We
3 are urging people to make that call as soon as they think there is going to be a problem.
4

5 Clarence Snow,

6 If I may, that is one of the areas that we are focusing on, to get information in front of
7 people to get them to act. Recently we sent out, we are in the middle of a mailing
8 campaign, we sent out some postcards with the seal of the state and a picture of the
9 Governor at the bottom because we didn't want it to look like some of the stuff that's
10 coming out from people that are, what is the best word, that are opportunistic, who are
11 looking to take advantage of the situation. The campaign is titled Mortgage Late, Don't
12 Wait. And across the state, we are going to be mailing to 688,000 Maryland residences
13 to tell them to take action, that there are some resources out there that they can use,
14 and that they need to be able to, yes, I have it, that they can use such that they can, to
15 try to figure out exactly what the process is and we're using the triage. And in
16 Montgomery County already in the first mailing, we've sent out about 17,000 of these
17 post cards, and there will be a second mailing in Montgomery County on April 9th that
18 will finish up. We are targeting in what we call hot spots, these are areas that have
19 delinquency and foreclosure rates that are greater than the statewide average. We
20 believe that those are the places that we need to focus on first and they are the places
21 that Director Nelson mentioned earlier that are places where we need to be focusing our
22 resources. And we're working with counseling organizations who are able to step up
23 and be there for the folks.
24

25 Council President Knapp,

26 Thank you very much. Councilmember Berliner.
27

28 Councilmember Berliner,

29 Let me commend you all. I appreciate this update. It is obviously a very serious issue
30 and I appreciated the observation that foreclosure is not a good option for anyone. None
31 of the parties involved benefit from foreclosure. As you observed, the banks don't
32 benefit because they are writing off way more than they want to write off and obviously
33 the homeowner doesn't benefit. What I wanted to explore with you was two things. One,
34 you observed that 50% of the people that are served notice do not respond. My
35 understanding is that if you don't respond, that it basically is an automatic foreclosure in
36 the judicial system. Is that your understanding?
37

38 Clarence Snow,

39 As a part of the national Hope Initiative that was announced by the President, Secretary
40 Paulson, and Secretary Jackson, they work with the servicers to come up with sort of a
41 compact of sorts on some forbearance and loss mitigation strategies. One of those is
42 sort of a proactive response to anticipated difficulty for people that are in adjustable rate
43 mortgages, where they, based on missed payments, they will send a, sort of a new
44 disclosure that says starting, you know, the first of next month, your mortgage payment



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1 will be thus and you need to sign it and send it back. And it is lower than what it would
2 have been after the adjustment. People are not even signing it. You know, and they are
3 not responding to the phone calls. So they are trying every method that they can, I
4 believe, to try to avoid going forward with foreclosures. We have seen that there are
5 servicers who are sort of walking up to the door of foreclosure but not wanting to get
6 into this market. They don't want to dump a bunch of properties in this market right now.
7 They'd rather try to figure out or work it out. So they have sent notices but they have not
8 gone ahead with the foreclosure action themselves. So, there are some strategies that
9 are out there. They are calling people, they are mailing things to people, but I think a lot
10 of people believe that there is nothing, you know, this is the same lender that got me
11 into this situation in the first place so why should I believe anything that comes in the
12 mail? And that is one of the reasons we decided to send something out that was coming
13 from a source that could be trusted.

14
15 Councilmember Berliner,
16 And I appreciate your work with quote, counselors.

17
18 Unidentified
19 Yes.

20
21 Councilmember Berliner,
22 Because I do think that is a critical element. Your description of counselors sounded
23 very similar to a program that a friend of mine in Ohio has launched on mediation. And
24 so that is a piece that I wanted to explore with you because it seems as if the legal
25 community has a role to play, the circuit court has a role to play here in ensuring that
26 before there is foreclosure, that there has been this attempt at mediation on the premise
27 that foreclosure is not a good thing for anyone. And that program which was launched in
28 Ohio has proven to be quite successful. It was actually launched in a County and so I
29 would urge you, I have copies of an article, urge you to explore this option to get our
30 County Council involved, Leon, I'm sure would be delighted to see if Legal Aid in
31 Montgomery County can be involved to have a conversation with the circuit courts so
32 that we can ensure that before there is a foreclosure, there has been a serious effort at
33 mediation and we have people here from, that are professional mediators that would be
34 delighted to participate in that process. So I just wanted to share that with you, that
35 other counties, other communities, the Ohio State Supreme Court was thrilled with this
36 program, thought this is a way to go. It sounds similar to your counselor program but a
37 slightly, a variation if you will.

38
39 Clarence Snow,
40 One of the things that we did as a state's housing finance agency is reach out to our
41 peers around the country to understand. We didn't want to reinvent the wheel.

42
43 Councilmember Berliner,
44 Right.



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1
2 Clarence Snow,

3 And there are a number of states that have done, I think, an outstanding job of trying to
4 get their hands around this. Some of those states have been hit by, you know, losses in
5 their industry and jobs. And therefore, they have been at this for a while. This new
6 development with foreclosures is just an added strain on the system. Pennsylvania in
7 particular, they have something called Act 91, which is a notice that creates a cooling off
8 period that allows for process of forbearance and modification of those loans.

9
10 Councilmember Berliner,
11 And that's what I was wondering.

12
13 Clarence Snow,
14 Other states that have things that are similar.

15
16 Councilmember Berliner,
17 Are you exploring that?

18
19 Clarence Snow,
20 Yes.

21
22 Councilmember Berliner,
23 That is an.

24
25 Clarence Snow,
26 Yes, we are looking.

27
28 Councilmember Berliner,
29 A requirement that you cannot go to foreclosure without a cooling off period.

30
31 Clarence Snow,
32 Right. There is, as I mentioned earlier, there are a number of legislative items that have
33 been put forward in this assembly by Secretary Tom Perez that will get at that. And we
34 work with -- on a direct basis, his agency, to provide both the financing and the supports
35 along with the legal aspect of this. Because some of that is just, you know, some of that
36 stuff is outright fraud, others is sort of unfortunate and we need to build in some cushion
37 around the homeowner because I think everybody believes that the best solution is to
38 try to keep them in their house until such time as the market gets back to equilibrium.
39 Yes, and we've looked at Ohio, which has its challenges.

40
41 Councilmember Berliner,
42 Big challenges.

43
44 Clarence Snow,



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1 Nebraska, Massachusetts, North Carolina, California, Texas, other states for examples
2 of things that they have done. And I think Maryland has probably the widest menu of
3 products and services out there. Some have done one or two things, others have done
4 other things but we try to address this challenge across the board with a number of
5 solutions and this is one of the ones that we're responding to.

6
7 Councilmember Berliner,

8 I also saw an article from Minnesota, Twin Cities has, uses the equivalent of the
9 Housing Initiative Fund to assist homeowners in this same kind of effort and so it does
10 feel as though we can bring these things together.

11
12 Clarence Snow,

13 If I may, one of the groups that we signed up as a part of our grant process to
14 strengthen the counseling capacity, is a group called Civil Justice which is serving to
15 provide technical assistance and training and legal support to the housing counseling
16 organizations across the state.

17
18 Council President Knapp,
19 Councilmember Ervin.

20
21 Councilmember Ervin,

22 Thank you very much. Thank you Secretary Snow for being here because this, this is a
23 very, did I say it wrong?

24
25 Clarence Snow,
26 Deputy Secretary.

27
28 Councilmember Ervin,

29 Deputy, well, you know, you know what I meant. Deputy Secretary, thank you very, I
30 gave you a promotion. Thank you for being here because this conversation is really a
31 long time coming to this Council. I am really happy that all of you are here. The
32 information that we are looking at clearly describes how dramatic the problem really is.
33 And I noticed, for example, Silver Spring, I am looking specifically on page 11, and very
34 concerned because we are already, in my office, receiving calls from individual
35 homeowners asking for assistance. There are so many things I want to ask but I'm not
36 going to spend a lot of time on this, but I know that there are hot spots. I know that there
37 are areas in the County that are hard hit and we haven't even seen the end of it yet. And
38 so, a couple questions I want to ask. First of all, I know that when Tom Perez was a
39 Councilmember and he tried to pass some legislation on predatory lending, and we can
40 see the results of predatory lending in some of the results of the work that you are doing
41 and some of the things that you are sharing with us, and that is that, nationally, I'm told,
42 and what I've been reading is that these subprime lenders were actually targeting
43 certain communities and certain individuals, a lot of them being African American,
44 Latino and women.



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1
2 Clarence Snow,
3 Yes.

4
5 Councilmember Ervin,
6 And so these neighborhoods are being the hardest hit. Thank you very much for sharing
7 this with this because if you are sending out 17,000 in Montgomery County and they are
8 being targeted to some of these areas, it would be really good for us to talk about and
9 maybe with --, how we can partner as Councilmembers as well, because I send out
10 email blasts from my office that gets sent out all over the district and people who are in
11 this situation are embarrassed, first of all, to let anybody know that they can't pay their
12 mortgage. And so, there, I believe that there are a lot of things that we can be doing at
13 the Council level to help you do your job as well. So, maybe that there are some other
14 conversations that we can be having with Rick and also with the, with Eric's department
15 because I know you're beginning to get those same kinds of phone calls that are
16 coming through our office. I want to ask about banks right now in terms of restructuring
17 and refinancing. And if we get calls into our office and someone is holding a loan with a
18 particular bank, what do we tell them?

19
20 Clarence Snow,
21 As to.

22
23 Councilmember Ervin,
24 As to.

25
26 Clarence Snow,
27 What can be done?

28
29 Councilmember Ervin,
30 What to do next. Yes. What can be done.

31
32 Clarence Snow,
33 Well, I would suggest that they call their servicer directly. Especially if they are past due
34 at the moment. If they are anticipating a problem, I'm sure that, they want to get in
35 queue for that too, but if they're in the process, especially if they've received a notice or
36 they are in serious delinquency, like 60 or 90 days past due, they need to get on the
37 phone with their servicer right away. We have tried to use this process through the
38 Governor's office to streamline that system a lot more. And we are working on that right
39 now. We are going to be meeting with servicers one on one to get, sort of Team
40 Maryland set up in each one of the major servicers so that we don't have to go through
41 the mill and consumers don't have to try to find their way through to get to the answer
42 of, is, you know, is there an acceptable, sustainable solution out there for me within your
43 organization? I personally believe that most of the people that are facing serious
44 delinquency and foreclosure are going to be helped by servicers. We are not going to



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1 be able to refinance our way out of this problem. There are going to be some people,
2 maybe 10, 12, 15%, that are going to be able to be positioned for refinancing. But my
3 guess is that the heavy lifting or the lion's share is going to be at the servicer level,
4 through forbearance and through loan modification and restructuring. And so it is
5 incumbent, I would suggest, that they call them if they have any difficulty or question or
6 hesitancy to call our hotline to get started. And they have an opportunity to work with
7 one of the housing counselors who can also work with them to make that connection
8 and move that forward because we want the counselors to understand what the process
9 is and be able to develop a workable scenario that then can be presented to lenders for
10 refinance and to servicers for forbearance and loan modifications and restructuring.

11
12 Councilmember Ervin,

13 Okay. Just a final point, and that is, what are you finding out about the lenders? Is there
14 a particular lender or two or three that are the big problems in the area?

15
16 Clarence Snow,

17 That is a toughie to answer. I'd say that the problem, the problem is the way mortgages
18 are done these days. You know, in the old days, it was the bank down the street that
19 was your lender. They lived in the neighborhood, the bank did, and it was a part of, you
20 know, the relationship. Now, your mortgage, a piece of your mortgage could be in
21 Taiwan, another piece could be in London, another piece could be in Texas.

22
23 Council President Knapp,

24 Yep.

25
26 Clarence Snow,

27 And so being able to work out something with your bank and the servicer may be just,
28 you know, a hired gun to do the collection and not have any sway, they don't own the
29 loan, they're just providing a servicing function. And so the difficulty has been the way
30 that Wall Street has come to Main Street, with exotic and subprime products that have
31 been out forever, but it's been brought to the mass market. And now it's scattered all
32 over the place and so the ability to come in and sit down and work out a problem has
33 been made more difficult. And so, they answer to your question is, it's all of the above.

34
35 Councilmember Ervin,

36 Well, there are subprime lenders.

37
38 Clarence Snow,

39 Yes.

40
41 Councilmember Ervin,

42 That are notorious.

43
44 Clarence Snow,



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1 Yes.

2
3 Councilmember Ervin,

4 And then there are the other lenders that are the more, I don't know, how do I describe
5 them, I'm trying to get a handle on, are there area lenders that are problematic? Are you
6 seeing a lot of loans coming from one or two different places?

7
8 Clarence Snow,

9 I can tell you at this point that what we see is that there are some, we hear a lot of
10 complaints and concerns coming from consumers and counselors about the difficulty of
11 being able to work in good faith with servicers, who, again, are the ones that are holding
12 where they're supposed to be sending their payments. The lender, a lot of the lenders
13 that they actually dealt with were actually loan brokers.

14
15 Councilmember Ervin,

16 Right.

17
18 Clarence Snow,

19 Who were working with a host of lenders who were structuring deals.

20
21 Councilmember Ervin,

22 Okay.

23
24 Clarence Snow,

25 You know, the two parties on the two ends may not have known what was going on and
26 the broker was in the middle sort of flying high, you know, and getting, you know,
27 making things done. The consumer, don't worry, I'll take care of you, I can get you in a
28 4% mortgage. Well, they didn't tell you that it was an adjustable rate mortgage that
29 could go up to 11 or 12% in a short period of time. They said a 4% mortgage, so you
30 were excited about, your payment will only be this amount. And so I think the difficulty in
31 the way that mortgages are done today is that that was going on in particular places, but
32 it was also going on across the board with people who were regular conventional
33 lenders that were dealing with brokers and brokers that were dealing with particular
34 lenders. And it depended on who you were working with as a real estate agent, as a
35 loan broker or just as a commissioned loan officer.

36
37 Council President Knapp,

38 Great. Thank you very much. Councilmember Elrich. And just for the benefit of my
39 colleagues, we do have one more item to get to and I know we've got folks waiting on
40 that one as well. But this is an important issue, so I wanted to make sure we get our
41 opportunity to get some questions out there, so I thank you all for bearing with us and
42 thank you to those folks who here for the next item. It is important for us I think to get
43 this information out to our residents.



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1 Councilmember Elrich,

2 And I thank you all for coming here and for the work that you're, that everybody's trying
3 to do. I guess my question is, how much of an equity crash has there been on the notes
4 that are being foreclosed on, because it seems there are two problems. There is one,
5 the inability to pay the note, but then the fact that the properties may not be worth, and
6 so does that offer us, it's a problem, but does it offer us also an opportunity, perhaps, in
7 restructuring in the sense that it's not worth the paper it's written on, anyway. And would
8 a more realistically structured note against a more reasonably valued property, would
9 that, are there ways we can work with those two things together to help people out?
10 Because if we put them out, and my fear is that at the end of the day, all the counseling
11 in the world will not make a person who shouldn't have been able to pay the mortgage
12 pay the mortgage in the long-term.

13
14 Clarence Snow,
15 I agree.

16
17 Councilmember Elrich,

18 And so we're going to be stuck with a lot of people out. But on the other hand, the banks
19 are going to have to absorb the loss of equity one way or the other. Is there a way of
20 facilitating that? It seems to me they would be better off absorbing it in the short term
21 and having a quick turnaround and having somebody in there who can pay it rather than
22 going out in the market and going through all the other processes that would be
23 involved in moving it to sale, so are we looking at ways of working with that?

24
25 Clarence Snow,

26 We're looking at everything. I think that you've seen most recently out of Representative
27 Barney Frank's office a second stimulus Bill includes some additional powers for FHA
28 as an insurer working with an existing mortgage holder to be able to write down that
29 principal. But, you know, if I'm a servicer, and more importantly, if I'm an investor, that's
30 the last thing that I want, to write off 50, 75, 100 thousand dollars to get to where the
31 market is realistic. There have been a number of reports that have been done that
32 suggest that this irrational exuberance in the escalation of value over the last five or six
33 years may be as large as 25 to 40% of current, of values that were, you know, a couple
34 years ago. That that has to be squeezed out of the market before we get back to
35 equilibrium. And if you go back, and there was a study done that went back and took a
36 look at normal price escalation curve.

37
38 Councilmember Elrich,
39 Right.

40
41 Clarence Snow,

42 Since 1890, taking into consideration the inflation rate. And above the inflation rate, that
43 price, since 1890 to the year 2000, grew at 0.4%. And we've been seeing much higher
44 escalation rates. So that 25 to 40% that needs to come out of the market, the question



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1 is, does it come out immediately? I'm not an economist, but does it come out
2 immediately by allowing a near crash of the financial market, or does it come out over
3 time with these various stimulus packages?
4

5 Councilmember Elrich,

6 I mean, I've seen the numbers for the County, and, you know, we've experienced a
7 similar extraordinary explosion in values, and it's one thing that predatory lending, or
8 however you want to characterize it, certainly drove up all the prices. Because if
9 anybody could get into any house, you simply made the bidding over the houses
10 escalate because there were many more buyers who theoretically were eligible, and,
11 you know, everybody else would wind up paying the price for it. And it seems to me that
12 those who contributed to this problem ought to take some lumps. I mean, this idea of
13 bailing out investors who thought they were going to get away with murder on the ever-
14 escalating prices is really troublesome. I saw Countrywide where they just got bought,
15 and two of their Executives they got packages of like 10 and \$19 million. How do you
16 get packages like that for running a company into the ground and causing all this misery
17 and then somehow you're rewarded instead of on trial someplace? That I don't get.
18

19 Rick Nelson,

20 Can I just say that one of the first things we're doing is trying to help those who are at
21 the top tier who can be helped with refinancing. I think the next effort that we have to do
22 in conjunction with the state is to look at some of those where the mortgages are upside
23 down, and what is there that we can do within the County to intervene in that kind of
24 situation? And that's a process that we're beginning to look at now. There isn't a formula
25 right now. That's one we're going to have to look at.
26

27 Council President Knapp,
28 Councilmember Floreen.
29

30 Councilmember Floreen,

31 Thank you, and thank you to all for your good work on this. I'd like to make the comment
32 that the dark, the other side of the lending issue is certainly the question of making
33 credit available to people who historically may not have had that access. And I don't
34 know what the percentage is of folks who have gotten into the system that are staying in
35 as a result of some of the new approaches. Clearly, there is some significant adverse
36 affects that people are suffering now. But I think that goes as well to the question of
37 credit counseling because it's not just your mortgage, it's your other debt. And I wanted
38 to ask Eric, are we seeing any information with respect to personal bankruptcies,
39 vehicle repossessions, and that sort of thing that also is an indicator of how our
40 residents are able to manage these days?
41

42 Eric Friedman,

43 Well, we're probably seeing that there is a need for credit counseling, not just housing
44 counseling.



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Councilmember Floreen,
Yeah.

Eric Friedman,
Because, as you say, we're talking about lots of different expenditures, whether you're financing a vehicle, just a budget for a household. And we don't have sufficient number of trained counselors for credit counseling in the County, and although we're not seeing a spike in car repossessions or anything in our office.

Councilmember Floreen,
We're not seeing that.

Eric Friedman,
We're not seeing a spike.

Councilmember Floreen,
Do we track that?

Eric Friedman,
Just by the number of complaints that we get. And it's been relatively steady. We've not tracked it as carefully as foreclosures have been tracked, but clearly, there is a need, because this is a holistic approach that needs to be taken to looking at the problems in terms of people who may have overextended themselves.

Councilmember Floreen,
How about on the bankruptcy side? Are we tracking that as well? Or not tracking that?

Eric Friedman,
No, I can try and find out.

Councilmember Floreen,
It would be helpful to find out what we know and what we don't know in that area. I don't know if the state is tracking that. I know that's not your bailiwick, but it would be helpful to understand that wider range of credit exposure issues, because I do think it's the one thing my kids would complain to me about with respect to their education. We thought we taught them at home, but certainly within the school system, we don't teach kids about worrying about credit. And Rick told the poignant story at the beginning about once you go through a foreclosure experience, you can't rent, that challenge of what's the next step. This is a bigger puzzle that we need to be attentive to. So I would ask, Eric, if you could get back to us with any information on the other elements of personal finance that we should be aware of and should be worrying about as we continue to proceed with that news of the \$19 billion write-off of the Swiss bank today, you know, a



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1 lot is going on in the market, and I am concerned about its additional impact on County
2 residents. Thanks.

3
4 Council President Knapp,
5 Council Vice-President Andrews.

6
7 Councilmember Andrews,
8 Thank you. Thank you all very much for the presentations and the responses. The chart
9 on page 11, I just want to ask a couple questions about that. You indicated that the rate,
10 the rate for all loans in Montgomery County that are in foreclosure in February was
11 1.1%, right? That's 1726. Is that right? Okay. When do you expect the number to peak?
12 When do you expect the rate and the number to peak in the state and in Montgomery
13 County?

14
15 Clarence Snow,
16 The honest answer is I don't know. I know that we expect resets to peak in August and
17 September of this year, but it will tail out over the next 12 months after that period of
18 time, 25,000 over an 18-month period.

19
20 Councilmember Andrews,
21 Okay.

22
23 Clarence Snow,
24 But there are people that are getting into delinquency and foreclosure even before their
25 loans reset. For other reasons, option arms, stated income, other situations, or they've
26 lost income or other kinds of pressure. So there are a number of reasons that are
27 contributing to that increase in addition to the structure of the loans.

28
29 Councilmember Andrews,
30 All right. So we saw 1726 foreclosures in February, which is roughly 57 a day, on
31 average.

32
33 Clarence Snow,
34 The number that we have here is McDash data, and McDash is more a day and time. It
35 tells the number of foreclosures that have happened up to that point.

36
37 Councilmember Andrews,
38 All right. So it's.

39
40 Clarence Snow,
41 That's a day and time as opposed to, you know, the one-month period. It's as of the end
42 of February.

43
44 Councilmember Andrews,



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1 Okay. So it's through February?
2
3 Clarence Snow,
4 It's through February.
5
6 Councilmember Andrews,
7 But it's through February from when?
8
9 Clarence Snow,
10 I believe it's one year.
11
12 Councilmember Andrews,
13 Okay, so it's a 12-month.
14
15 Clarence Snow,
16 Yeah.
17
18 Councilmember Andrews,
19 Okay.
20
21 Clarence Snow,
22 If I look at a different set of data from Montgomery County, I show that there were, for
23 the fourth quarter, there were 1300 foreclosure events in Montgomery County.
24
25 Councilmember Andrews,
26 It's a rolling 12-month analysis.
27
28 Clarence Snow,
29 Right.
30
31 Councilmember Andrews,
32 Okay. So in that 12-month period from February to February 2007, 2008, you had 1726
33 foreclosures, a 1.1% rate.
34
35 Clarence Snow,
36 Right.
37
38 Councilmember Andrews,
39 That rate as opposed to the previous February went from, it was 8 tenths of 1% now it's
40 1.1%, so about a 40% increase.
41
42 Clarence Snow,
43 That's right.
44



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1 Councilmember Andrews,
2 In the rate there. Okay. And at this point, it sounds like you expect that rate and the
3 number to continue to increase at least for another year.

4
5 Clarence Snow,
6 I think we're susceptible to an increase in that number over the next 12 months, at least.
7 I don't know when we're going to come out of the tunnel, but I think that we're subject to
8 an increase over the next 12 months, at least.

9
10 Councilmember Andrews,
11 Okay.

12
13 Clarence Snow,
14 The good news about Maryland and Montgomery County is that our economic
15 fundamentals are good as opposed to other states like Ohio and Pennsylvania and
16 others. I think we can, if we do these things that we talked about and more, I think we
17 can create a softer landing for Maryland based on those economics.

18
19 Councilmember Andrews,
20 Okay. I was at a forum last summer that was hosted by the County Executive and put
21 together by the Office of Consumer Protection on foreclosures, and one of the issues
22 that came up was the difficulty that homeowners associations are having, condo
23 associations, because naturally one of the first payments to go is the homeowners
24 association payment or condo association payment, and are you hearing much about
25 that from those associations?

26
27 Eric Friedman,
28 We are. The Consumer Protection Office serves as staff to the Commission on
29 Common Ownership Communities, and as you stated, that's a very, of concern to them
30 because the viability of the condominium association and the homeowner association
31 may depend upon people paying their condo dues and HOA dues.

32
33 Councilmember Andrews,
34 Sure.

35
36 Eric Friedman,
37 And as you said also, that is one of the first things to go once you can't, you run into
38 financial difficulty. So the Commission is concerned about that. And we are hearing from
39 them and they're looking for the state to maybe do some legislation, but that is a
40 concern that's tied to this foreclosure situation.

41
42 Councilmember Andrews,
43 Right. Okay. And I'll just make one more point, and that is something that Eric Friedman
44 mentioned earlier which I've mentioned before, but it takes a while for information to



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1 sink in, to get a message out, and since this is the first day that a new law has just taken
2 effect, and this weekend will be the first weekend that people looking for a home in
3 Montgomery County will see more accurate information on the real estate flyers they
4 pick up, because when they go out now, they'll get an accurate estimate of what their
5 property tax bill will be if they buy the house. What they see now on the flyers, at least
6 until yesterday, was what the current owner is paying in property taxes, which is often
7 40% less than what they will pay and can easily make a difference of \$200 a month in
8 their payment, which could well be 10 to 15% of their total monthly payment, which, if
9 they're on a tight margin, can put them in a very difficult spot and make it hard for them
10 to stay in the house. So that will, we hope, have some impact on people getting into
11 trouble in the future who got into trouble in part because they didn't have the full
12 information when they made the decision about the house, as to whether they could
13 afford to stay there. And I understand, Eric, that your office has done a great job in
14 putting together the estimated tax calculator that allows sellers to find out very easily
15 what the estimated property tax bill will be that they need to put on the flyer for home
16 buyers to be aware of. But can you talk for just a minute about how you're going to get
17 that information out to people so that they know that this is something that they need to
18 do and the sellers need to do this and that people are aware of it?

19
20 Eric Friedman,

21 Yes. As you say, with any new law, we have to disseminate it and make sure there is
22 enforcement action as well. We have been working with the real estate industry and
23 with GCAR to make sure that their agents know that the law takes effect on April 1.
24 We'll also be doing some sweeps through communities, through open houses and doing
25 some spot checking as well as an addition to articles in the Gazette so that people
26 realize the information that needs to be out there in all these advertisements.

27
28 Councilmember Andrews,
29 Thank you.

30
31 Council President Knapp,

32 I would just again, thank you all for coming and presenting the information that you
33 have. One thing that you've all talked about again, is how do we get information out
34 and, Eric or Rick, is some aspect of this on our County's front page, on our home page
35 so that if you actually just go to the County's home page that you can actually easily see
36 these hot line numbers?

37
38 Eric Friedman,

39 This is something we just produced in terms of getting to some of the town hall
40 meetings, but we'll certainly put it out there, because those are, for a single piece of
41 information, the two best numbers are probably the federal hot line and the state hot
42 line, and let me just quickly add, the federal hot line, the state hot line is very good too,
43 but the federal hot line is operated 24 hours a day, 7 days a week by a live person, not



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1 a recording, and they have the capacity to speak 30 different languages and to
2 electronically see your mortgage documents.

3
4 Council President Knapp,
5 Okay.

6
7 Eric Friedman,
8 So there are some resources out there.

9
10 Council President Knapp,
11 Well, I would urge you to follow up with the Public Affairs Office to make sure, Public
12 Information Office to make sure that we have, whether, obviously, this flyer is not going
13 to be there, but we can certainly have something that's fairly bold on the front page that
14 talks about where you can get more information.

15
16 Rick Nelson,
17 We're also going to try to get a foreclosure web page up for additional information.

18
19 Council President Knapp,
20 Okay. Good. And thank you all. I wish this was the last conversation we'd have on this,
21 but judging from the numbers you've given us, we'll be talking to you much more about
22 this in the coming months. So thank you very much for your time. I appreciate it. I thank
23 those of you who have been here for the next Agenda item, which is a Report of the
24 Infill Housing Task Force. I apologize for taking so long on this item, but I think everyone
25 would agree that it's pretty significant, pretty timely, and something that clearly this
26 County has got to focus on given the numbers that were presented to us today.
27 Consistent with what we've done with other County-funded task forces, reporting back
28 on various issues, the two most notable recent ones being the Ad Hoc Advisory
29 Committee on agriculture which had recommendations that came out about two years
30 ago, year and a half ago, and then the Infrastructure Financing Task Force which made
31 recommendations to us last summer, once those reports were completed, then there
32 was a presentation to the full Council after which recommendation from various
33 Councilmembers then proceeded from there. And so that's where we are in this
34 process, so it kind of speaks to the breadth of issues, that we go from a discussion of
35 the foreclosure issue to a discussion of infill development. I guess that speaks to the
36 viability of our economy. So I think that is good. I just wanted to turn to Councilmember
37 Berliner briefly for some quick opening remarks and then to Gwen Wright who is head of
38 County-wide planning again?

39
40 Councilmember Berliner,
41 She's back.

42
43 Council President Knapp,
44 Okay. Can't keep track of all the titles. And.



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1
2 Councilmember Berliner,
3 Well.
4
5 Council President Knapp,
6 There we go.
7
8 Councilmember Berliner,
9 One, let me.
10
11 Councilmember Elrich,
12 Is that acting or not-acting?
13
14 Councilmember Floreen,
15 Not acting.
16
17 Council President Knapp,
18 No.
19
20 Councilmember Berliner,
21 You've been acting, right? I always thought you were such a faker.
22
23 Council President Knapp,
24 For the benefit of those in our viewing public, we actually have our new.
25
26 Councilmember Berliner,
27 Oh my goodness. Look at our new toy.
28
29 Council President Knapp,
30 We can see from different directions. You can actually see the information being
31 presented.
32
33 Councilmember Floreen,
34 The other Councilmembers can see.
35
36 Councilmember Berliner,
37 All I want to know is, are we going to be able to watch baseball on this? Let's get real
38 here. Are we going to be able to watch the nationals on this?
39
40 Council President Knapp,
41 Anyway.
42
43 Councilmember Berliner,



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1 Council President, let me thank you for scheduling this briefing. As you recall, and my
2 colleagues may recall, we actually allocated 0.4 work years to Park and Planning to
3 assist us in this process, and I think you will see that that was money well spent and
4 really got quality work from Park and Planning. Mary Beth O'Quinn, and of course Gwen
5 Wright really just did a spectacular job of providing expert advice at every step of the
6 way. We also had DPS intimately involved. Susan – was there at every meeting as well.
7 And we had a process that was facilitated by trained facilitators from the Conflict
8 Resolution Center of Montgomery County. We had six people engaged from them at
9 various times. Almost always three facilitators at every meeting, which was open to the
10 public, where we would take comments that could come in and then we would have
11 those comments shared with the task force members, so at every point in time, it was
12 an iterative process, it was a productive process, it was a civil process, it was a process
13 that was very evenly balanced. We had community members, all community members
14 from various perspectives, from the neighborhood activists who were themselves, if you
15 will, deeply affected by the infill development to architects, every facet of both industry
16 and community members, all working together and working very hard, over six months,
17 and often meetings on weekends to try and get through some of the hard stuff, and we
18 achieved consensus on an incredible array of items that Gwen will share with the group.
19 And so I thought that it was really money well spent and effort well spent, and I think
20 we're going to move forward with what the overarching goal with respect to this work
21 was in the words of Dr. Hanson was to achieve a quote, more graceful transformation of
22 our older communities. And I think the work of this task force will move us in that
23 direction. So with that, I will allow Ms. Wright to make the presentation.

24
25 Council President Knapp,
26 Before we get started, I know there are a number of task force members here. I just
27 wanted to know if you wanted to introduce them or at least have them stand or have
28 them introduce themselves.

29
30 Councilmember Berliner,
31 Yes, I would be delighted to, because we do have a number of members here. Mr.
32 Mandell, would you care to join us? Stand up. I see you. Doug Bonner.

33
34 Doug Bonner,
35 Doug Bonner, representing Bannock Burn Citizen's Association.

36
37 Councilmember Berliner,
38 Mark?

39
40 Mark,
41 Mark --, Architect, Bethesda, Maryland.

42
43 Councilmember Berliner,
44 And there's some realtor. What's her name?



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1
2 Kristen Gerlach,
3 Kristen Gerlach.

4
5 Councilmember Berliner,
6 Oh, hello Kristen Gerlach.

7
8 Chuck Sullivan,
9 Chuck Sullivan.

10
11 Councilmember Berliner,
12 And Chuck Sullivan, and then we have our facilitators also here, if they would stand
13 and.

14
15 Jeremy Cronowitz,
16 Jeremy Cronowitz with --.

17
18 Patricia,
19 Patricia --.

20
21 Mary Jackstite,
22 Mary Jackstite, also with --.

23
24 Richard,
25 Richard --, the same.

26
27 Councilmember Berliner,
28 And, of course, the most important person of all, would Ms. Rebecca Lord please stand,
29 because without her we never. [applause].

30
31 Council President Knapp,
32 Very good. Well, thank you to all the task force members for your participation over the
33 last six or seven months. We appreciate your commitment very much to our community.
34 Ms. Wright.

35
36 Gwen Wright,
37 Given the time, I'm going to try to give a fairly brief report, because I don't want you all
38 to miss an opportunity to see some of the 3D modeling that was presented to the task
39 force. I am anxious for you to see it not only because I think it was useful information for
40 the task force but because it is a tool that we hope to use more and more in various
41 planning efforts that we do within the Planning Department. I want to say as a sort of
42 preface that it was a great honor to participate and work with the task force. I think it
43 was a very, very good and useful six months, six months well spent. The purpose of the
44 report that you have and that you've received is to provide information on the work done



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1 by the task force and to describe the background materials that were provided by the
2 Planning Department to the task force to support their work. It is not meant to be an
3 analysis of the work of the task force of any potential legislation. It is meant to be quite
4 factual. In addition to this report, we do have minutes of each of the task force meetings.
5 We did take minutes of each of those meetings, and those are available and can be
6 forwarded to you if the Council desires to review those. One of the biggest issues that
7 the task force took on initially was really defining the issue. That was something that
8 took a lot of time. I think that the task force members came to the discussion with very
9 different perspectives and very openly and honestly shared those perspectives. There
10 were folks who were very concerned about the impact of infill development in their
11 communities. There were also task force members who strongly felt that there wasn't a
12 problem, there wasn't an issue, and that this work that was being done met a market
13 need and was part of the natural evolution of neighborhoods. And that was discussed
14 quite a lot at a number of the initial meetings, and really, it was an underlying discussion
15 throughout the course of the task force. I think that that's probably one area that we
16 never did totally achieve consensus on. I think that there are still folks who see this as a
17 more serious problem and people who see it as not as big an issue and certainly that,
18 you know, informed a lot of the discussion that went on. But then, once we sort of
19 agreed that we needed to move on beyond defining the issue, we decided it was
20 important to at least begin researching how other communities are addressing this issue
21 and what they have done. And so the staff, and I do want to recognize Mary Beth
22 O'Quinn again, did a pretty comprehensive look at the tools that are being used in a
23 wide variety of communities, some of which are not like Montgomery County, some of
24 which have similarities to Montgomery County. But she really tried to cover the
25 spectrum. Some of that information is included in your report. It looked at tools ranging
26 from neighborhood conservation districts to a revision of the zoning to allow for form
27 base codes to the whole concept of Floor Area Ratio, FAR, that you're going to hear a
28 little more about, to dealing simply with revising permitted lot coverages. There were a
29 whole range of ways that this topic has been addressed in other communities, and that
30 was shared with the task force. We then went into a more detailed exploration of various
31 tools that might be useful. And in looking at those tools, which really starts on page 10
32 of your report, we focused in on a couple. Floor Area Ratio, FAR, lot coverage
33 reduction, some additional work on the Established Building Lines, EBL, sloping lot
34 definition, height in various zones particularly the R200 Zone, massing guidelines,
35 whether they be volunteer or mandatory, and the issue of neighbor notification when a
36 project comes up. In looking at these tools, one of the things we wanted to do was use
37 3D modeling to help the task force understand the impact of various options. And so
38 what I'd like to do is turn it over at this point to Mary Beth and to Jonathan Horseman
39 who did all of the modeling work and deserves a lot of recognition also.

40
41 Mary Beth O'Quinn,
42 Good afternoon.

43
44 Council President Knapp,



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1 Good afternoon.

2
3 Mary Beth O'Quinn,
4 Mr. President and Councilmembers. In approaching our modeling effort and to
5 understand the issues of house size and lot size in context, because this is actually a
6 contextual problem, we decided that we would use a representational block to create
7 these models. And the block we chose was a block near Friendship Heights called, in
8 the Brookdale neighborhood. This block offered a very representational spread of
9 elements that really include a lot of the things that we need to look at. The
10 neighborhood is older, the houses were built, say, from 1939 to 1941. There is a wide
11 range of lot sizes which range from 5700 square feet to almost 11,000 square feet. The
12 house sizes vary quite a bit on this block. The block is also at, located at a point where
13 there is a large scale difference, and you can see in the upper right-hand corner the
14 Geico parking lot, so it's very near a CBD. It's near the Friendship Heights Metro. We
15 thought that this neighborhood actually is sort of ripe for building enhancements and
16 enlargements of houses. Also the road widths were fairly narrow as occurs in older
17 neighborhoods. It's also R60, which is the largest category of numbers of housing units
18 in the County. So given this, we decided first we would document the existing
19 conditions, and we used the record plats, the land records, the tax records, the building
20 permits, the, and aerial photography and field survey to actually recreate this. And you
21 see here, the first one was the existing blocks with trees. Now, for the purpose of
22 comparison, we took out the trees so that we could actually see the house form itself.
23 And this gives you a very clear picture of the footprints and size of the houses. You can
24 see the white area is the full lot area between the lot lines. The darker green area is the
25 buildable area that accounts for the setbacks applied to each of these lots. Some of the
26 lots are grandfathered in, and they don't, the building line is at the lot line, but most of
27 them have the setbacks. You'll notice the corner lots use the two front setbacks at the
28 corners. And you can also see the size of lots, which really varies. The house on Dalton
29 Road that's third from the left represents the median lot size. In this exercise, we
30 concluded from a study of the development data that the average lot coverage, that is
31 the building footprint sitting on the lot is 17.31%. And the average FAR is 0.2. The
32 average house size here is 1718 feet. And the average lot size is 8721. You can see
33 also the rear setbacks which allow for pretty generous patios and decks which are not
34 included formally in lot coverage. Patios and decks can be built beyond the building
35 envelope. What usually counts toward lot coverage is main structures and accessory
36 structures, essentially anything that has footings or building foundation to it. Next, we
37 decided that we would look at what is the maximum buildout? If we added to these
38 homes to achieve what the zoning ordinance allows in an R60 Zone to maximum
39 buildout, we wanted to see what that would look like. And that coverage is 35%. And
40 here you see the example of the 35% coverage. You can see, the houses, essentially
41 the footprints double. They go from 17% to 35%. And the average lot coverage
42 increases substantially as does the potential size of the house. The average maximum
43 house in this scenario, based on average lot size, would be almost 6300 square feet.
44



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1 Council President Knapp,
2 Say that again.

3
4 Mary Beth O'Quinn,
5 If you took, creating a hypothetical average lot size based on all the lots in this block,
6 the average maximum house size would be 6300 square feet, which is 2900 over what
7 the average existing house size is. Okay. You see also the effect, I mean, of the
8 additions of the houses which, of course, are accommodated at the rear. A few have
9 enough side setback to accommodate additional structure on the sides, but essentially
10 it, you know, it occupies what is the rear to rear relationship and the backyards where
11 most of the trees would be. You can see the house on the corner, on the far right, really
12 doesn't have much room for expansion because it's almost built to its building envelope
13 which accommodates the setback. The next thing we looked at was, we said, okay, let's
14 look at a minimal building situation. We took, as a minimal buildout, a 20% lot coverage
15 scenario. The 20%, here you see this, now what's interesting about this scenario is that
16 you begin to get a feel for the proportionality of lot size and proportionality of house size.
17 You can see where the larger corner lots, which are the two at the top, and this one on
18 the lower right here, there's still capacity to accommodate building expansion for this,
19 building expansion on these upper lots here. Those are the largest lots on the block,
20 right? The median lot note does not accommodate any expansion because it's built
21 already to the 20%. Of the 13 lots on this block only, one, two, five accommodate
22 significant expansion. So, essentially, this is actually almost a quasi preservation
23 scenario. You know, the other lots really are kept in the way they are. And you can see
24 that there is still substantial room in the rear for decks and patios and the preservation
25 of trees. You can see also that the volumes of houses on the larger lots accommodate,
26 you know, a variety of, you know, types of expansion in that. The front setbacks, of
27 course, remain all the same, so the appearance from the street is as is, and this is, of
28 course, assuming that the height restrictions remain the same as well. In this scenario,
29 the 20%, the lot coverage average would only increase by 90 square feet. And the
30 average maximum house would increase by 200 square feet over what would be
31 allowable under the average lot for the average maximum house size.

32
33 Council President Knapp,
34 Which is what?

35
36 Mary Beth O'Quinn,
37 Which is 3370.

38
39 Councilmember Floreen,
40 I've got a question.

41
42 Council President Knapp,
43 I was going to say, do you want to ask work this or do you want us to ask questions
44 along the way?



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1
2 Mary Beth O'Quinn,
3 No, you can ask.
4
5 Council President Knapp,
6 Because you're changing variability here.
7
8 Councilmember Floreen,
9 Well, I'm just trying to understand your assumptions here.
10
11 Mary Beth O'Quinn,
12 Uh-huh.
13
14 Councilmember Floreen,
15 You're saying assuming existing homes and how much more that they could add on.
16
17 Mary Beth O'Quinn,
18 Uh-hum.
19
20 Councilmember Floreen,
21 In the last picture, I think you had decks and things.
22
23 Mary Beth O'Quinn,
24 Right. Right.
25
26 Councilmember Floreen,
27 You don't have them here?
28
29 Mary Beth O'Quinn,
30 No those are not, we didn't include those here because we wanted to see.
31
32 Councilmember Floreen,
33 The buildings?
34
35 Mary Beth O'Quinn,
36 Yeah.
37
38 Councilmember Floreen,
39 So, but, you know, we don't have, every lot isn't the same, so it's all different. So what
40 you're saying is a couple of these could expand a bit and others, like that one, are you
41 saying the others couldn't add on?
42
43 Mary Beth O'Quinn,
44 If creating the 20% scenario.



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Councilmember Floreen,
They're all already at 20?

Mary Beth O'Quinn,
Many of them are.

Councilmember Floreen,
They are, they are now.

Mary Beth O'Quinn,
But the ones that you see.

Councilmember Floreen,
So all those they couldn't put on anything?

Mary Beth O'Quinn,
Right.

Gwen Wright,
Right.

Councilmember Floreen,
Okay. But they could knock the house down and build to a bigger envelope.

Gwen Wright,
They could build, in this scenario, which is, we're showing you sort of the sides of the spectrum, the 35% lot coverage, which is the current allowable lot coverage, and 20% lot coverage, and in 20% lot coverage, even if you tore down an existing house, we would be saying in this scenario, 20% is what you could build, which means that the footprint would be somewhat similar to the footprints of the houses that you see. I think one of the things that this pointed up and that the task force quickly sort of thought about was the idea of, that lot coverage should be on a graduated scale, and you'll be hearing more about that. Because certainly on a larger lot, you can appropriately perhaps accommodate more building, and on smaller lots it may be a bit more difficult. So there was a quick understanding that we might want to look at graduated scale for lot coverage.

Councilmember Floreen,
And I'll just say, I'm having trouble understanding what we're solving for. And you said at the outset, that was the one thing that the group couldn't reach a consensus on, so it's hard to know how, you know, exactly, I mean, for this block.

Gwen Wright,



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1 Uh-hum.

2

3 Councilmember Floreen,

4 I get a sense of the options, but if we're looking, I mean, we've got a lot of communities
5 here.

6

7 Gwen Wright,

8 Uh-huh.

9

10 Councilmember Floreen,

11 Different sizes and in different, fiscal opportunities and the like and I'm just trying to
12 understand, are we solving for height, are we solving for relationship, are we solving for
13 tree cover, are we solving for, I mean, none of these go to affordability.

14

15 Gwen Wright,

16 No.

17

18 Councilmember Floreen,

19 In fact, they actually are anti-affordability to a certain degree, depending on how you
20 look at it. But, I'm just, it's hard to know, as I said, how we get, you know, to yes here.

21

22 Gwen Wright,

23 Well, I think that the issue.

24

25 Councilmember Floreen,

26 Speaking in the mediator's terms.

27

28 Gwen Wright,

29 Right. I think that the issue that seemed to be where folks perhaps could agree is that
30 the issue is compatibility, compatibility within an existing neighborhood.

31

32 Councilmember Floreen,

33 Yeah.

34

35 Gwen Wright,

36 Now, how one defines compatibility, again, reflects your own viewpoints and your own
37 perspectives. I don't know that there was a lot of disagreement that it's a good goal to
38 try to have compatibility.

39

40 Councilmember Floreen,

41 But is there an assumption that this particular block is currently, I'm assuming, I've been
42 there, as I vaguely recall it's pretty comparable, they're pretty comparable units, homes,
43 they're all pretty much.

44



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1 Gwen Wright,

2 I mean, they're from the same general era. They architecturally have some differences,
3 they aren't, it's not a, you know, an overwhelmingly cohesive replicative neighborhood
4 like some of the neighborhoods we have where every house literally was built at the
5 same time and looks exactly the same. But we thought it was a representative block,
6 and it was one that we didn't, you know, know of a lot of controversy on this specific
7 block, so we tried to pick something that was somewhat more objective. What we also
8 have, though, now here is an option that shows 30% lot coverage. Did you want to
9 describe that?

10
11 Mary Beth O'Quinn,

12 This scenario represents 30%, and as you can see, here every house can account,
13 every lot can accommodate an addition with the exception of this one in the corner,
14 because the setbacks are so restrictive and it's a smaller lot. But the purpose of
15 comparing these different scenarios is to see if the lot coverage was used as a
16 compatibility determinant, what the effect of establishing the bar at different levels would
17 be in terms of that compatibility. And this is sort of a mid-range level. It allows more
18 footprint and a bigger house than, of course, the 20% or the 25%, but less than the
19 30%. You can see physically how it doesn't encroach into what would be the tree area
20 to the same degree that a 35% maximum buildout would entail.

21
22 Councilmember Floreen,

23 But you're also, I mean, for additions and things, aren't people, there's the occasional,
24 you know, vast addition, but a lot of times people just want to, I don't know, add on a
25 family room, extend the kitchen a bit, you know, or, you know, double it in size. But you
26 are.

27
28 Gwen Wright,

29 We're showing worst case scenario.

30
31 Councilmember Floreen,

32 Yeah.

33
34 Gwen Wright,

35 If every single person on the block decided to build out to the maximum, what would it
36 look like? I mean, the reality is that this would probably never happen, that people will
37 build, but probably not to the maximum. People will add on. There may even be tear-
38 downs where a new house is built, but it's not going to be necessarily always
39 maximizing. Just to, because I'm sure you all have a lot of questions, just to try to get a
40 little bit to the points of agreement that seemed to be coming from the task force, I want
41 to make it clear that, you know, again, as I said, I think that there are some very
42 underlying disagreements about what is the problem, what is the issue. Folks were able
43 to discuss that, move beyond that a little bit, and talk about potential ideas for tools and



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1 points of agreement and concurrence. There did seem to be uniform consensus
2 regarding the idea that we should use graduated scale lot coverage.

3
4 Council President Knapp,
5 Are you on page 22?

6
7 Gwen Wright,
8 Yes.

9
10 Council President Knapp,
11 Following along.

12
13 Gwen Wright,
14 I am on page 22. That what's very interesting, and actually I know Mary Beth has done
15 some research into this, is even in R60, you will have many lots that are larger than
16 6,000 square feet. In R200, you will have many lots that are not half an acre, that are
17 either very small or larger. And that even though R60 and R90 and R200 are the zoning
18 classifications that we've given these older neighborhoods that were built in many cases
19 before zoning, we have great variation in lot sizes. So rather than looking at solutions
20 that are done by zone, look at it by size of lot. The actual percentage of lot coverage
21 that would be appropriate on different size lots was the subject of much debate, and I do
22 want to be clear that there was no consensus on that. There was a lot of discussion
23 about possible options, and I think at the very last meeting, Councilmember Berliner sort
24 of said he'll have to just take that all into account, listen to the discussions, listen to the
25 different viewpoints and take it into account as there is moving ahead. The Floor Area
26 Ratio tool, FAR, was also discussed a great deal. There are a number of communities in
27 this area, municipalities, that are looking at using Floor Area Ratio. The city of Rockville,
28 the town of Chevy Chase, possibly Chevy Chase Village, and we discussed Floor Area
29 Ratio quite a bit within the task force. But the option of going with lot coverage rather
30 than Floor Area Ratio seemed to be preferred. It might be possible to look at Floor Area
31 Ratio in the future, there was no commitment to do that, but folks felt the Floor Area
32 Ratio was very, very hard for your average homeowner citizen to calculate and to
33 understand. It's one thing when you're talking about an entirely new house that's being
34 built and doing, requesting a calculation of Floor Area Ratio. However, when you ask a
35 homeowner who just wants to add on to their kitchen, well, you know, you have to figure
36 out the existing Floor Area Ratio of your single-family house before we can tell you how
37 big a kitchen you're allowed to have. That seemed to be very difficult and not a process
38 that was advocated. The EBL standards, there was, again, consensus that those need
39 to be simplified and there needs to be a consistent, compatible effect. They also, the
40 task force also seemed to come to consensus that building heights for some lots in the
41 R200 Zone should be revised to be consistent with the R60 and R90 Zones. Again, this
42 was related to the idea of graduated size of lots. There is, in the R200 Zone, many lots
43 had a 50-foot height restriction, yet they could be quite small lots because there are



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1 many non-conforming lots in that zone. And the idea was to have different heights in the
2 R200 Zone based on the size of the lots.

3
4 Councilmember Floreen,
5 Ask a.

6
7 Council President Knapp,
8 One second. I was going to say, do you want to finish that up because I know a couple
9 of Councilmembers have questions.

10
11 Gwen Wright,
12 Right. Well, there's just three more quick points, which is that there was also interest in
13 developing a standard definition of sloping lots that could be published and understood.
14 And the task force also talked a lot about how breaking up the mass of houses design,
15 in essence, is a way to make infill housing more compatible and endorsed the concept
16 of developing voluntary massing and neighborhood guidelines, but not mandatory
17 guidelines at this point. There was also a lot of discussion about neighbor and
18 community notification of infill projects at a very early stage in the project, and I think
19 there was also pretty uniform consensus that this was a good idea and should be
20 pursued. All in all, I think that it was a very, very good effort, and there were a number of
21 points of consensus that I think can definitely help in making infill housing more
22 compatible in older neighborhoods. I think there is probably, you know, still work to be
23 done, and we would look forward on continuing to provide assistance as you, as the
24 Council continues working.

25
26 Council President Knapp,
27 Okay. Thank you very much. Councilmember Elrich.

28
29 Councilmember Elrich,
30 I like your modeling tool. One of the things that may, and you don't have time now, I
31 assume, but we don't have time now, anyway. One thing I'd like to look at is, what
32 happens in the neighborhood where the houses are less, let's say less tall? I mean,
33 here, you know, the additional massing against, you know, tall house against tall house
34 against tall house. The biggest complaints I've, well, at least, the biggest complaints I've
35 heard are the people who would live in a rambler, and in a neighborhood of ramblers
36 and then not just the addition starts happening, but the front of the house gets blown up
37 to two stories and everything starts happening. What does that look like? And if you only
38 use, and if you use the, or you use the 30% rule at 2 ½, I mean, I guess, if the colors
39 were all the same, it might look okay. There's something off-putting about the brown
40 and the gray in terms of looking scarier maybe than it is, but maybe if it was all gray, it
41 would be less off-putting, but I wonder how it would look if you had a neighborhood of,
42 you know, the ramblers, and then you started popping up some of these things using a
43 30% coverage. What does that look like?
44



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1 Gwen Wright,
2 Well, I mean, I think that is.

3
4 Councilmember Elrich,
5 Could you do shadow studies? Because that's the other concern. When you start going
6 out to those lot lines and those heights, you're throwing houses in severe shadow.

7
8 Gwen Wright,
9 That is something we heard from a number of task force members, that concern. Other
10 task force members brought up the point that the maximum building height in these
11 zones just about two years ago was decreased from, I believe it had been 35 at the mid-
12 point and now it's 30 at the mid-point and that new houses are just now being built
13 under that new regulation and that they should be given time to sort of see if that helps
14 solve any of the problems. The other topic that came up was, again, the use of these, at
15 this point, it was suggested to be voluntary massing guidelines that would, I think,
16 address some of the compatibility issues that you may be bringing up.

17
18 Councilmember Elrich,
19 I mean, there are some up there just now where, you know, the models of what's
20 permissible are just put these huge walls right next to the property line.

21
22 Gwen Wright,
23 Yes.

24
25 Councilmember Elrich,
26 I mean, I realize this is a crude modeling and perhaps no architect worth his salt would
27 build anything as hideous as that, on the other hand, we see it all the time, so who
28 knows. I mean, I just worry about the impacts on less uniform or lower rise
29 neighborhoods.

30
31 Gwen Wright,
32 Again, I think that was a topic of discussion, and those are pretty, we've all seen some
33 pretty extreme examples. We were trying to not necessarily model the worst case
34 scenario. We were trying to model something that was a little bit more of an average
35 situation, but it was a big point of discussion. And on the other hand, again, task force
36 members brought up the fact that there are people who no longer wish to live in one-
37 story houses, two-story houses are what is marketable now, and even some of the one-
38 story houses are being, having second floors added to them because that is sort of the
39 style at this point. And it's not necessarily tear-downs, it's changes and additions to
40 existing one-story houses. So we heard definitely both of those issues.

41
42 Councilmember Elrich,
43 I guess, you know, when it's a one-story, when it's an addition to the one-story, that's
44 one problem. When it's an addition of the story plus an addition to the building, and



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1 some of what you show up there are pretty substantial additions, almost doubling, it
2 seems.

3
4 Gwen Wright,
5 Yes.

6
7 Councilmember Elrich,
8 Of the buildings. You get a doubling of the building and a doubling of the height, I mean,
9 I don't know if that's going to make, is that going to make a lot of these communities
10 very comfortable that we've actually addressed some of their biggest infill concerns?

11
12 Gwen Wright,
13 Well, I think, again, you know, you all will have to consider legislation. What we were, in
14 essence, trying to do is sort of give you the images of what happens in different lot
15 coverage scenarios. If you have a 20% lot coverage, you are probably not going to be
16 allowing doubling the size of a house because the average neighborhoods are existing
17 at 17 to 20% lot coverage. What you may be doing is saying people can't build an
18 addition, they can't build that kitchen. If you come up with something that is perhaps
19 less than the current allowable 35%, you can certainly diminish the impact of literally
20 doubling the size of an existing house. The question is going to be, that you perhaps
21 need to consider is, what's the right number?

22
23 Councilmember Elrich,
24 So how hard is it if we want to ask you to do like you've done here and give us
25 scenarios between 20 and 30? I mean, I've got my own experiences growing up in a
26 house that was 28 by 42, on a 6,000-square-foot lot and every house in the
27 neighborhood built up to my house was 28 by 42 and then the others after it were
28 shorter but two-story and taller and mine was a rambler. There was not an issue of
29 similarly foot printed buildings next to each other in the height, but I could well have
30 imagined had the ones next to us not been a slightly smaller footprint but just as tall and
31 double the footprint that that would have been a very different impact.

32
33 Gwen Wright,
34 We did model 25% lot coverage also. We can model any percentage that would be
35 useful.

36
37 Councilmember Elrich,
38 And we can get a PowerPoint so that you don't have to print it out? We've got the
39 technology.

40
41 Council President Knapp,
42 Very good. Councilmember Floreen?

43
44 Councilmember Floreen,



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1 I just had a couple of preliminary questions. Did you, you've got a lot of nice pictures in
2 here, I mean, are these examples of good things or bad things?

3
4 Gwen Wright,
5 A combination.

6
7 Councilmember Floreen,
8 In here.

9
10 Gwen Wright,
11 The house.

12
13 Councilmember Floreen,
14 I couldn't tell if these were examples of things that you didn't want to see or if they were
15 things that you did want to see in terms of the pictures, and if they would be doable
16 under any of these scenarios.

17
18 Gwen Wright,
19 Well, we did look at a lot of images.

20
21 Councilmember Floreen,
22 I think but I wasn't sure. Maybe they weren't. It's all in the eye of the beholder and
23 oftentimes it's a resident next door.

24
25 Gwen Wright,
26 The house on the first page was discussed quite a lot. It was brought in as an example
27 of a new infill house that was done that was very successful.

28
29 Councilmember Floreen,
30 That's a good one.

31
32 Council President Knapp,
33 Good one.

34
35 Councilmember Floreen,
36 Okay.

37
38 Gwen Wright,
39 And the task force talked at length about, you know, what made it successful? And
40 there was a lot of discussion about how it.

41
42 Councilmember Floreen,
43 Really.



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1 Gwen Wright,
2 Was successful because it broke up the building mass, was designed by one of the task
3 force members, they shared the information.
4

5 Councilmember Floreen,
6 Oh, especially that. [laughter].
7

8 Gwen Wright,
9 And, you know, shared the, you know, so we could see the floor plans and how the
10 house design had evolved, and I think, you know, this got into some of the discussion
11 about massing and how massing can really enhance compatibility.
12

13 Councilmember Floreen,
14 Yeah.
15

16 Gwen Wright,
17 Breaking up massing can enhance compatibility.
18

19 Councilmember Floreen,
20 And I am intrigued, I think the idea in here about some community design standards or
21 recommendations or portfolios or whatever would go a huge way to helping some of
22 these things. But I'm surprised a little bit about this one because it has the emphasis on
23 the garage so you make, you know, I'll just say that's interesting to me. Did you all come
24 up with a perfect house?
25

26 Gwen Wright,
27 No.
28

29 Councilmember Floreen,
30 One of the things I'm concerned about in all of this is, A, the existing folks, I mean, did
31 you, with all the studies that you did, did you look to see how many homes, and I'm
32 mostly talking inside the beltway here, I think, would be non-conforming under any
33 scenario?
34

35 Mary Beth O'Quinn, We did do initial estimates of how many lots are conforming and
36 how many aren't, and our estimates covered actually the whole County.
37

38 Gwen Wright,
39 Because in terms of lot size, we're talking about.
40

41 Mary Beth O'Quinn,
42 Lot sizes.
43

44 Councilmember Floreen,



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1 But in terms of zoning and existing homes?

2
3 Gwen Wright,

4 No, we did not take a look at how many.

5
6 Councilmember Floreen,

7 I mean, what I worry about is not the new homes.

8
9 Gwen Wright,

10 Sure.

11
12 Councilmember Floreen,

13 But the folks who really would just like to add on a more modest part, but they find out to
14 do that, they can't, so they end up having to knock down the whole shebang, or they
15 move because they can't afford that. I mean, we had that experience. We couldn't afford
16 to add on an addition, so we did move. And it wasn't a zoning issue, it was an expense
17 issue, a long time ago, but there are lots of families in that situation, particularly really
18 close to the CBDs where the lots are quite old and many of them are not pre-zoning or
19 those pre-1928 lots and all that, and it looked to me to have a pretty significant lot
20 coverage. Couldn't swear it for sure, but they're on itty-bitty lots. You're saying you
21 didn't look at that exactly?

22
23 Gwen Wright,

24 We did not look at how many existing houses are non-conforming in the County and
25 how many would become non-conforming if you changed the allowable percentage of
26 lot coverage. I'm trying to figure, I mean, we could find that for a sample area, but.

27
28 Councilmember Floreen,

29 If we get to that, I will ask that, I will want that data because we did do that when we did
30 the height thing to try to understand what it meant for existing homes and their ability to
31 do something other than, you know, that gigando rebuild, basically. And the other thing
32 with the lot coverage issue, I'll just say that, and I made the comment earlier with
33 respect to this garage, people who might want to not have a garage as part of their
34 house, I mean, the problem with lot coverage as I see it is that you can, if it's too tight,
35 you force bigger homes because you can have design elements. Because, you know,
36 there's X amount of stuff people want, it seems to be, that need to be contained within a
37 structure. And if you can't, if you don't have any flexibility, it's going to be a bulky
38 structure. Did you talk about that in the Committee?

39
40 Gwen Wright,

41 We did. We talked about how the, and actually, it was one of the discussions when we
42 were discussing FAR, was the concern about how do you avoid by setting limits that are
43 tighter, encouraging folks to build out to the maximum of those limits and not thus
44 ending up with boxy or bulky houses.



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Councilmember Floreen,
Yeah. Yeah.

Gwen Wright,
And I think that the sense was maybe in combination with massing guidelines and incentives that were also discussed to encourage.

Councilmember Floreen,
That's what Chevy Chase is looking at.

Gwen Wright,
Elements like porches and bay windows and the kinds of architectural elements that begin to break up mass that in combination you could avoid ending up with really boxy houses.

Councilmember Floreen,
Okay.

Council President Knapp,
All right. Council Vice-President Andrews?

Councilmember Andrews,
Thank you. Well, first thanks for the hard work on this. I know that it was a long effort, lots and lots of meetings, and it's the sort of thing where compatibility of scale in neighborhoods, I believe, is important. It's not easy to define, but you know it when you see it. You know it when it's not there and you know it when it is there, and the challenge you faced is coming up with proposals that help maintain it in a way that's understandable and fair and gets the job done, and I look forward to the Council's discussions on this. I think it is something that we need to address. I thank my colleague Councilmember Berliner for his initiating this effort and look forward to the next steps.

Council President Knapp,
Councilmember Berliner.

Councilmember Berliner,
I didn't pay him to say that, but speaking of next steps.

Councilmember Andrews,
Next steps.

Councilmember Berliner,
Next steps, I want to share with my colleagues the legislation that I will be introducing at the first opportunity which does, in fact, take into, takes all of the items which were a



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1 matters of consensus, those are three items there. One is my dear colleague and two
2 pieces of legislation and share with my colleagues that among the most important
3 breakthroughs that I think our task force made was the notion of moving away from
4 zones to determine lot coverage. As has been mentioned today, we have different lot
5 coverages based on whether you are in an R60 Zone, an R90 Zone or an R200 Zone.
6 And yet, within each of those, you have widely disparate lot sizes, while in R200, you
7 are supposed to, people conceive of it as a half an acre, you have many instances in
8 which there are 5,000 square foot lots within R200 that currently are only allowed to
9 build out to 25% of lot coverage because it's perceived that they've got the big lot,
10 therefore, a smaller lot coverage is appropriate. Yet they've got a 5,000 square foot lot.
11 So the task force agreed that all homes should be sized on the basis of the lot. So
12 proportionality will now be our key principal going forward should the Council accept
13 these recommendations. And so each of the recommendations that the task force
14 reached consensus on is reflected in the legislation before you. It does have,
15 Councilmember Floreen, the notification issue, as well as the guidelines issue. That is
16 that neighborhoods now are encouraged to establish guidelines for what they want to
17 see in terms of design in their neighborhood, what they want to see actually in
18 construction practices, and to put that all in a book that then would be required, the
19 builder would be required to review it. Not required to follow it, but to be aware of it and
20 the expectation is of the building community that to the maximum extent possible people
21 are going to do what the neighborhood wants them to do. So this legislation would push
22 us forward in that regard. It does reform the established building line, which has been a
23 mess. It has led to a lot of litigation, it's led to a lot of irrational decisions on where a
24 house can be placed. In some instance it forces the house to be pushed so far back that
25 it creates a problem with the neighbor in the rear, and it makes some lots basically
26 unbuildable. So from the builder's perspective, this was a reform that they were very
27 much looking forward to seeing happen. So all of the issues on which there was
28 consensus, we, as reflected in this legislation, and the one item, of course, in which
29 there wasn't consensus was the building lot reduction itself, how much of a reduction
30 should there be? And obviously, neighborhood activists felt strongly that it should be
31 down closer to 25%. The builders felt that, you know, basically there might be a
32 problem, but 35% of the current was just fine. I decided that there needed to be an
33 adjustment and that the adjustment would be the mean between the 35 existing and the
34 25 that neighborhood activists, as well as, you know, there were some Park and
35 Planning people that thought 25% would be appropriate. But I felt that that was too
36 much to ask in terms of a reduction. And insofar as the biggest challenge we face is on
37 the smallest lots, the 6,000 square foot lot, for example, today you would allow a house
38 at 35% lot coverage, which is permissible, to be 5150 feet, approximately. That's what
39 could be built today. That's a big house on a small lot. Under my proposal, it would be
40 reduced by 16%, so instead of the 5100 square-foot house, it would be 4750. There are
41 going to be some that say that that's too big a bite, and there are others that are going
42 to say, gosh, can we do more? My goal with respect to this was to try and strike a
43 reasonable balance to make a reform that would be meaningful but not too damaging to
44 consumer choice, not too damaging to builders. So that's the legislation that I share with



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1 my colleagues. I look forward to your co-sponsorship, and I look forward to the hearings
2 that will be held, both public hearings as well as worksessions and the PHED
3 Committee, Council President, I look forward to working with you with respect to this
4 legislation.

5
6 Council President Knapp,
7 Thank you.

8
9 Councilmember Berliner,
10 I thank the members of the task force. They will have plenty of opportunities to speak
11 out on this issue and to share their own individual experiences, both at the public
12 hearing and at the worksessions. We have done this with integrity from the get-go and it
13 will go forward on that basis.

14
15 Council President Knapp,
16 Thank you, Mr. Berliner. Thank you to the members of the task force. Just to clarify,
17 nothing has yet been introduced. This is a proposal that Councilmember Berliner has
18 shared with colleagues and sent a dear colleague letter around. I don't want anybody to
19 be confused because he's handed it out here. So, there are, you can comment on
20 anything. There is a task force report that has been presented that people can comment
21 on, if and when this gets introduced, there will be legislation that the Councilmember
22 proposes to introduce that people will be able to comment on. I know this is a topic that
23 is of extreme interest in some communities and as other communities are blissfully
24 unaware. So one of the issues that we need to actually address is to see how to
25 reconcile those pieces so that those communities who are not aware of the
26 consternation that exists in other communities are not caught off guard. But I think it will
27 be a lively discussion as many discussions in this Council have been thus far, and I,
28 again, appreciate all of the efforts of the task force, I appreciate the efforts of Park and
29 Planning to bring this report forward. I think everyone likes the new tool that you have,
30 and we look forward to having lots of opportunities for you to model different things for
31 us. So I thank you all very, very much, and I, again, apologize at the lateness of the
32 hour. We had hoped to do this a little sooner in the day, but I think they're all important
33 issues that we've gotten to. And so I appreciate you bearing with us. Before
34 Councilmembers disappear, we have one more issue to address as the day goes on.
35 This is something that we raised this morning as it related to the Infrastructure
36 Maintenance report that was presented to us. Dr. Orlin had met with the various
37 representatives, County Government, MCPS, Montgomery College, Park and Planning
38 to make some recommendations as to issues that were highly rated as it related to their
39 criticality, but were not necessarily sufficiently addressed in the currency CIP, so he has
40 a memo, I believe, for everyone.

41
42 Glenn Orlin,
43 I just handed it out.



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1 Council President Knapp,
2 Okay. Or it's being handed or it's just been handed out. And Dr. Orlin, what are you
3 presenting to us?
4

5 Glenn Orlin,
6 Sure. I did meet with the analysts, the facility managers after the meeting this morning.
7 They were anxious to point out certain specific projects where they thought more
8 funding would be useful, but they were not anxious to actually recommend specific
9 amounts because their role is to defend their agency's request, and that's typical.
10

11 Council President Knapp,
12 That's fine.
13

14 Glenn Orlin,
15 I certainly understand that, so what you see in here in terms of the dollars for each are
16 my recommendations. And I tried to keep them relatively modest given that we're
17 oversubscribed in the CIP by hundreds of millions of dollars already, yet trying to reflect
18 the highest priorities. What you see, there are five recommendations for each one the
19 format is, you see the PDF in the upper left of each box, then you'll see something
20 called AARC, that's the Acceptable Annual Replacement Cost. That's the amount of
21 money, these are all in thousands of dollars, by the way, this is the amount of money
22 though which is the goal. This is how much we'd like to be able to provide every year to
23 try to keep up with the need for that particular element. And you also see something
24 called CR, which is the Criticality Rating on a one to five scale, five being the most
25 critical, one being the least critical. You will also see that I put in the numbers that are
26 recommended in the last year's approved CIP for '09 and '10 and what is currently
27 recommended for '09 and '10. I look at this as a two-year thing because this is a
28 recommended CIP. And I don't know if you have a copy of the addendum, I'll make sure
29 you have this. Sorry. Since this is a two-year CIP, you won't be getting back to this
30 really full time for another two years, the thought was to make recommendations for
31 both of two years now, and you'll see also then in the staff's recommendation. So let me
32 just go through them very quickly. First is the HVAC electrical equipment for
33 Montgomery County Government, MCG, where there is \$800,000 currently
34 programmed for '09 and '10, and that's what's recommended in the CIP. The goal was
35 actually almost \$4.5 million a year, and my recommendation is to increase the current
36 amount by 500,000 in each of the first two years to 1.3 million. You had also asked for
37 indications for what the savings would be for energy and maintenance. Unfortunately,
38 this quickly we really couldn't get the information except, unless there was on the PDF
39 and operating budget impact line, there is for this one, and it indicated that for the
40 \$800,000 investment you would save \$6,000 for every \$800,000 increment on energy
41 consumption. I think that sounds low but that's what is on the PDF. And so if you add
42 another \$500,000, that would result in a further \$4,000 savings a year. Again, I think
43 that sounds low, but that's, we're dealing with the numbers that I have quickly. The other
44 four projects, if you turn over the page, roof replacement for Montgomery County



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1 Government, currently recommended, currently in the approved CIP \$1.7 million for
2 each of the first two years. The recommended CIP actually had recommended
3 increasing it to two million a year. And the goal is actually to try to get to close to 3 1/2
4 million dollars a year. It's got a 5 Criticality Rating. My recommendation is to increase
5 that by half a million dollars a year in each of the first two years. Resurfacing rural
6 residential roads. This is part of the new program the Executive is recommending.
7 There is the other part of it which is to actually tear up and rebuild roads. This is strictly
8 to do the hot mix asphalt where you don't have to go as far as tearing up the roads. The
9 approved CIP had 2.7 million in '09, 3 million in fiscal year '10. The recommended CIP
10 ramps up starting at 4 million and going to 4 1/2 million and actually higher amounts in
11 later years. You can see that the amount that we need to be doing in this just to stay
12 even is about 11.4 million. My recommendation is to increase these numbers by a
13 million each in '09 and '10. HVAC replacement for the school system, the approved CIP
14 \$4 million a year. The recommended CIP actually recommended a fairly large increase
15 to 5.6 million a year. If you look in the book, it looks like the need is about 17 million, but
16 again, recall that a lot of the work under this program, a lot of the other MCPS projects
17 will be done as part of the modernization program, so factoring that out, the additional
18 need beyond the modernization program is for about \$6.7, \$6.8 million a year, and you
19 heard Mr. Lavorgna say this morning that they could use a little bit more money, so I'm
20 recommending giving them a little bit more money, another \$400,000 raising it to \$6
21 million. And then finally, Park and Planning, they're doing a facility reassessment of a lot
22 of their facilities, but one area that they know they're short of is renovating pedestrian
23 bridges for their trails. They're really behind on that. They only have \$30,000 a year as
24 part of this project to do that, and that's all that's recommended in the CIP. This
25 recommends essentially quadrupling that to about 130,000 a year, which is still short of
26 the 342,000 which is the replacement amount, but it also has a high Criticality Rating. If
27 you add all five of these projects together, what it adds is \$2.5 million in '09 and \$2.5
28 million in fiscal year '10.

29
30 Council President Knapp,
31 Okay.

32
33 Glenn Orlin,
34 And it's a recommendation, it's just, and obviously you decide what you want to do here.

35
36 Council President Knapp,
37 Recognizing that everything is obviously going to be subject to our discussion next
38 Tuesday, I would, unless there is objection, propose that we add this to our discussion
39 for next week so at least we have taken an attempt to address the most critical issues
40 as it realities to maintenance infrastructure, or infrastructure maintenance.

41
42 Glenn Orlin,
43 Sure.



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1 Council President Knapp,
2 Okay. There are at least six of us here.
3
4 Councilmember Berliner,
5 That was a moment of pause. You're good.
6
7 Council President Knapp,
8 Yep.
9
10 Councilmember Floreen,
11 I just have a question.
12
13 Council President Knapp,
14 Councilmember Floreen.
15
16 Councilmember Floreen,
17 These are the top five overall of everything?
18
19 Glenn Orlin,
20 In talking with the facility managers again.
21
22 Councilmember Floreen,
23 Parks has a lot of, you know, deteriorating buildings and stuff like that.
24
25 Glenn Orlin,
26 Yeah. The Parks folks were sort of unwilling at this stage to pinpoint a particular, in most
27 cases particular projects because they're.
28
29 Councilmember Floreen,
30 Big mistake.
31
32 Glenn Orlin,
33 Doing their wholesale facility review.
34
35 Council President Knapp,
36 Yep.
37
38 Councilmember Floreen,
39 Okay.
40
41 Glenn Orlin,
42 And they didn't want to jump out ahead of that too much.
43
44 Councilmember Floreen,



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1 Right. Okay.
2
3 Glenn Orlin,
4 The College, by the way, I didn't mention that they are, they would be happy if they got
5 just what was requested.
6
7 Council President Knapp,
8 I love the College. Very good.
9
10 Councilmember Floreen,
11 They're just simple people.
12
13 Council President Knapp,
14 Okay.
15
16 Glenn Orlin,
17 Okay.
18
19 Council President Knapp,
20 All right.
21
22 Glenn Orlin,
23 Thank you.
24
25 Council President Knapp,
26 Thank you all very much. We are adjourned.
27